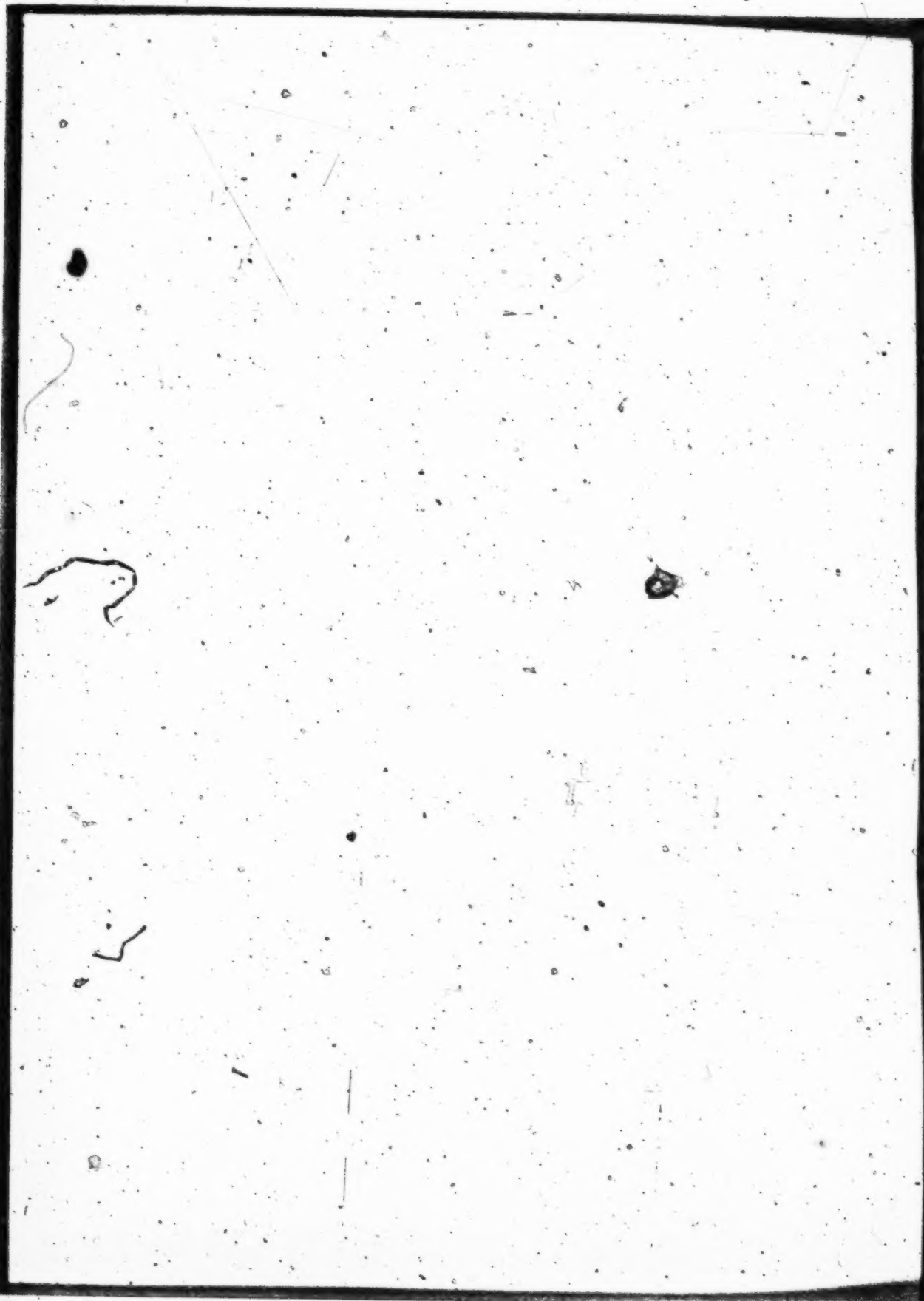

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Supreme Court of the United States

No. ~~1-448~~ 216

1967

WALLACE FRANKLIN SATTERFIELD,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
Respondent.

Appendix A to Petition for Certiorari, Containing Portions of The Record Showing Fifth and Sixth Amendment Federal Questions Were Properly Raised in the Lower Courts

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(This appendix is presented pursuant to Rule 23(f) of The Rules of The Supreme Court of the United States.)

*In the Circuit Court of Halifax County, prior to the admission of the confession into evidence in this case, the following motion was made in Chambers by counsel for the petitioner:**

[TR. P. 83]†

MR. MCLAUGHLIN, JR.: Judge, we want to make this motion. Any evidence that Mr. Coates may have in regard to a confession be declared inadmissible.

During the discussion that followed, the following agreement was reached:

[TR. PP. 84-85]

THE COURT: All right. Let's see, do we have enough evidence to rule on it?

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* The short notes explaining the context of the portions of the record contained in this appendix are set out in italics.

† References to the transcript are designated by "TR." followed by the appropriate page number.

MR. MCLAUGHLIN, III: No, sir. I'm afraid we are going to have to have some evidence on it.

THE COURT: The sheriff has got to testify as to the voluntariness and if the man knew what he was doing and everything of that kind.

MR. MCLAUGHLIN, JR.: We want to have that done in the absence of the jury.

* * *

THE COURT: What time is he going to introduce it? Is it anything we can pass on now in regard to it?

MR. GREER: I don't think so. We have to put the Sheriff on as a witness that he got into this investigation, when he got into it, and I'm going to ask him if this statement was given him by the defendant and his answer will be yes. At that time, I am sure the defense will ask that the jury be excused.

THE COURT: I mean we ought to excuse the jury before we get into it at all, because it does mention the fact that maybe there is a confession in existence and the jury wouldn't understand our excluding it.

* * *

MR. GREER: But, if it's wrong to even ask him about the statement, I won't do that. I will just put him on and ask him who he is, and I will ask him if he investigated this alleged offense, and if he says yes, I will stop and then you can send the jury out.

THE COURT: And, we will get it cleared up.

The record showed that the following transpired after the matters taken up in Chambers were concluded:

NOTE: The jury was polled and Court is again in session at 2:06 P.M.

[TR. PP. 90-91]

MR. MCLAUGHLIN, JR.: At the time, if Your Honor please, I would like to make a motion either in Chambers or in the absence of the jury that his testimony be heard by the Court first as to the admissibility of evidence, sir.

THE COURT: All right, sir.

MR. GREER: I was going to do that, but I still want to get his name and whether he investigated this alleged offense.

THE COURT: All right.

C. T. Coates

introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

BY MR. GREER:

Q. Will you state your name and occupation?

A. C. T. Coates, Sheriff of Halifax County.

Q. Sheriff, did you investigate this alleged offense which we are trying today?

A. I did.

THE COURT: Ladies and gentlemen, will you retire to your jury room please.

NOTE: The jury left the courtroom to retire to their jury room.

While the jury was out the Court heard evidence on the admissibility of the confession, which evidence is set forth below in its entirety.

[TR. PP. 91-192]

BY MR. GREER: (Continuing)

Q Sheriff, when were you called into this investigation?

A On the night of January the 18th.

Q And, that was a result of information concerning the cause of death of this Jeffrey Brenner?

A Yes, the Doctor Wooding called me and told me the child had died of arsenic poisoning, and he thought it should be some investigation made of it. I told him it was the first knowledge I had of it, and I would get on it the next morning which I did.

Q All right, sir. Now, the next morning, that was January the 19th, did you start your investigation then?

A Yes, sir.

Q And, who did you interview first?

A I went to Turbeville and contacted Mrs. Satterfield, Franklin's—Franklin Satterfield's wife.

Q Now, they had moved since December to Turbeville?

A That's right.

Q And you talked to Mrs. Satterfield about the case?

A Yes, sir. I brought her over to the office and talked with her.

Q All right, sir. When was the defendant arrested?

A He was placed in jail at 12:40 the same day.

Q And, did you have to go out and apprehend him? What were the circumstances?

A No. We had his wife over here. He came down, because I was over at your office when he arrived and when I got back to my office, he was there, or had been there. I think he was there at the time.

Q And, was he questioned at that time?

A Yes, sir.

Q And, was he informed of his constitutional rights at that time?

A He was.

Q Did he make a statement to you at that time?

A Not at that time.

Q All right, sir. Was it then that he was lodged in jail?

A Just a little while after that, that's right.

Q He hadn't been charged when you questioned him the first time had he?

A No.

Q Then he was lodged in jail at 12:40, I believe you said?

A Uh-huh.

Q And, did you talk to him anymore that day?

A I talked to him around six-thirty to seven o'clock.

Q And, did he make a statement to you at that time?

A No, sir.

Q During both of these sessions with him, before 12:40 and around six-thirty, did he deny any knowledge of the—did he make any denial at all?

A He did deny it, but he gave me information enough that at the end of the first interview to secure a warrant for him.

Q I see, sir. All right, sir. Did you see him anymore that day?

A Yes, sir. When I finished talking to him about six-thirty to seven, we had engagements the next morning. He was going with me to Appomattox to take a polygraph test.

Q He had agreed to take a lie detector test?

A Yes. And. I told him that anything else he wanted to tell me that night to get one of the deputies or the jailer to call me, that I was going on home. I went on home. About fifteen or twenty minutes after I arrived at home, the telephone rang and wanted me back over here. I came back.

Q Why did you come back? Who wanted you over here?

A Satterfield. They told me that Satterfield wanted to talk to me.

Q All right.

A And I came back over here and took him out of the cell, carried him up to my office with two of the deputies and sat down, and he gave me the statement.

Q Did you advise him of his constitutional rights?

A I did.

Q What did you advise him?

A I told him who I was, and I told him, I said, "You understand, Frank, you don't have to make any statement if you don't want to. You understand that? Yes. You understand that any statement you make can be used against you in court? You understand that? Yes. You understand that you have a right to an attorney before you made a statement. Do you understand that? That's right. I reckon I do. I don't know about it. Now, wait a minute. You have a right to an attorney before you make any statement. You understand that? Oh, yes. All right, now. Nobody has promised you anything? No. Nobody has promised you any favors of any kind or made any threats towards you? No. Are you making this statement of your own free will? Yes." And, then I went on with the statement.

Q All right, sir. Who was present when that statement was given?

A Deputy Sheriff Monroe Anderson and Roy Pruitt.

Q What time did you start taking the statement?

A It was eight-fifteen.

Q What time did you stop?

A Eight-forty.

Q Was Officer Pruitt and Monroe Anderson present the entire time the statement was given?

A Yes.

Q Were they in uniform?

A Yes.

Q Were you in uniform?

A No, sir.

Q Do you wear a uniform?

A No, sir.

Q How did you conclude the statement?

A "Now, Frank, who is in here listening to you while you make this statement besides myself? Roy Pruitt, and I don't know him. Roy Pruitt and Monroe Anderson. Both of them are Deputy Sheriffs. Both of them have on uniforms. Correct? That's right. All right, and you have given this statement of your own free will and accord? That's right." And, that's the end of it.

Q At the time the statement was given, had the defendant had supper?

A Yes, sir.

Q Do you know what kind of accommodations he had in his cell?

A I don't know right off. Before they go to bed at night, they have a mattress, two sheets, a pillow, pillow case, and a blanket.

Q They are not in the cells all day long?

A No. When the cell is empty, we take those things out. We don't put them back until somebody comes to occupy that cell.

Q Now, if I understood you correctly, you said that you told the defendant when you left over here that night that you were going home, and if he decided he wanted to talk to you, give you a statement, to call you and you would come back?

A To get the deputy or the jailer to call me, and I would come back.

Q All right, sir. Do you recall who called you to come back?

A I asked them about that, and Pruitt was, fairly sure it was he that put the call in for me.

Q Did you have the defendant sign the statement?

A Yes.

Q And, was it, he signed it in the presence of whom?

A Monroe Anderson and Roy Pruitt.

Q Did you see him sign it?

A Yes.

MR. GREER: He's with you.

CROSS EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Sheriff Coates, did you tell the defendant, Mr. Satterfield, that if he confessed he could get bond?

A I never mentioned a bond. A bond had been set before that happened.

Q I would like to get a direct answer to the question.

A No, I didn't tell him that.

Q Isn't it a fact that in the preliminary hearing, you were asked the same question and you said you didn't know?

A I don't know what was said. I know I hadn't promised him any bond. The bond had been set. It wasn't up to me to bond him.

Q That's not the question. Now, you said that you did not tell him he could get bond if he confessed?

A No, sir.

Q Now, you were in the preliminary hearing, and you took your oath and testified in the preliminary hearing, didn't you?

A That's right.

Q Now, just a second and let me find it. (Mr. McLaughlin, III is looking through the transcript of the preliminary hearing.) The date of the preliminary hearing before Judge Waller is the 24th day of June, this year. Is that right?

A I guess. I didn't keep up with it.

Q Excuse me just a second. Let me find something here. Isn't it a fact that in the preliminary hearing, the following question was asked you? "Question, did you tell him if he made a confession he could get out on bond? Answer, I do not know."

A I didn't say that.

Q Now, if Mrs. Abbott, who is the court-reporter, comes and testifies that you—are you sure you didn't

say it? I thought you said a minute ago you weren't sure what she said?

A No, I didn't say that.

Q You didn't say that?

A No.

Q Now, I want to put a little more context with the questions. All right. Let's start at the first of the cross. Now, I'm going into where this part is. The question was, had you told Frank Satterfield that you were a good friend of his uncle, Ed Satterfield, who worked as deputy sheriff for you in years past and a good friend of Mr. Thomas Bass and a good friend of his family during the time you questioned Frank. Do you remember that question?

A That's the question you asked me here in the preliminary hearing.

Q Right. Wasn't it your answer.

A Wait a minute. I didn't tell Frank that. I told you that here in court. You asked me a question.

Q You say you did not tell Frank you were a friend of his family?

A I said it in the courtroom. He was here.

Q You said what?

A You asked me the question if I was a friend of Mr. Satterfield, Mr. Tuttle and Mr. Bass, and I told you I was.

Q Well, now, that's right. Do you deny that you also told Frank Satterfield that you, in fact, that you in jail told Frank Satterfield that you were a friend of his uncle?

A I don't recall it.

Q You don't recall?

A No.

Q Now, don't you remember that during the preliminary hearing, you were asked that question? I have not got to it yet. You were asked whether or not you told Frank Satterfield in the jail that you were a friend of his uncle and a friend of Thomas Bass and a good friend of his family, and you stated yes?

A I don't remember it.

Q Well, now, let me go back. I don't want to try to trick you. You said you don't remember whether you said it to have told him that or not?

A I don't recall telling him that.

Q You don't remember whether or not you said in the preliminary hearing that you did?

A I don't know.

Q But you might have?

A I don't know.

Q Well, let me read it to you. "Question: Had you told Frank Satterfield that you were a good friend of his uncle, Ed Satterfield, who worked as a deputy sheriff for you in years past, and a good friend of Mr. Thomas Bass and a good friend of his family during the time you questioned Frank? Answer: I do not know whether I told him or not. He knew that. Question: Is that true? Answer: It's true I am a friend of theirs. Question: Did you not tell him that on the night of January 19th around something after eight o'clock or did you tell him before? Answer: I do not know when I told him. Question: But, you did tell him? Answer: Yes."

Now, does that refresh your memory? Does that sound like what you said?

A I told what you just said there a while ago. He already knew we were friends.

Q Now, in this preliminary hearing, isn't it a fact that when pursued on this question, you admitted that you did tell him that?

A I don't know.

Q But, you wouldn't deny it?

A I just don't know.

Q The next question was, "Did you tell him that if he made a confession he could get out on bond? Answer: I do not know."

A I didn't say that.

Q Now, if Mrs. Abbott testifies having taken down each word, she took this answer down, would you say that she was mistaken?

A I certainly would.

Q Now, isn't it a fact that immediately after Frank Satterfield confessed and made a statement that you called his father and told him he could come get him?

A He asked me to call his father, and I did.

Q Didn't you tell Mr. Bedford Satterfield "the boy's confessed; you can come and get him"?

A I told—I called Mr. Bedford Satterfield for Frank. Now, what he wanted, he wanted bond. I told him he could get—well, he knew he could get bond. He had been knowing it ever since . . .

Q Wait a minute, Mr. Coates. Let's substantiate that. I want you to answer the question if you will. We will get to the fact of whether he knew he could get bond, but didn't you call immediately after Frank Satterfield confessed, made his statement, didn't you in fact call his father and say, "The boy has confessed. You can come get him."

A No. I told him he had confessed, and the boy wanted him to come down there.

Q Now, isn't it a fact that Mr. Bedford Satterfield came here the afternoon before Frank Satterfield made the statement?

A That's right.

Q Came here and asked you something about the bond the same afternoon that you arrested him before the statement was made? Didn't Bedford Satterfield come here this afternoon and ask you about the bond?

A He asked me what the bond was, and the Commonwealth attorney said the bond was ten thousand dollars ($10,000.00), and that's what I told him.

Q Well, now isn't it a fact when he came here and asked you about the bond that you said, "Bed, I'd rather you leave him here overnight. I got a polygraph test in the morning."

A I told him that we were going to take him the next day for a polygraph test.

Q I know. But, didn't you express a desire that he leave him there?

A I don't recall that.

Q You don't recall whether you did or not?

A I told him we were going to take him for a polygraph test the next day.

Q Now, if Mr. Satterfield testifies that you told him, you said, "Bed, I'd rather you didn't take him. I'd rather you left him here overnight so I can take him for a polygraph tomorrow." Would you deny that?

A I don't remember saying it.

Q Now, as soon as—after he confessed, some people came over here to go his bond?

A I don't think so. I went on home, and I don't think they came that night. They might have.

Q Didn't Lewis Tuttle call you and come over to the sheriff's office?

A That same night?

Q After the confession?

A He called me a time or two. I don't remember if it was that same night or not.

Q You wouldn't deny that?

A He called me, but I don't know whether it was that night or not.

Q All right. Now, I want to go over this one more time. As I understand it, you deny having promised that "if you confess, you can get out on bond". You deny that?

A I absolutely did not.

Q And, you deny having expressed doubt as to whether or not you done this in the preliminary hearing? You deny that you expressed doubt about whether or not you had done this at the preliminary hearing?

A I don't know anything about that. I have never told him if he confessed he could get bond.

Q I'm asking you about the preliminary hearing now. I want to get this absolutely straight. Mrs. Abbott has got it down here, and I want to know?

A Well, I didn't say that. No, I've never told him that.

Q Now, let's go into this advisement of his constitutional rights. You testified at the preliminary hearing that you told him of his preliminary rights three different times. Is that correct?

A I don't know what I said at the preliminary hearing. I advised him of his rights.

Q Do you mean to say that you don't remember what you said to him?

A I advised him of his rights every time I talked with him.

Q Excuse me. Do you remember what was said at the preliminary hearing?

A I don't remember.

Q You just don't remember? The preliminary hearing was on the 24th of June. Is that correct?

A I have repeated, I advised him of his rights every time I've talked to him.

Q You are going to get a chance to say that, but I want to nail down this thing about your memory.

A I don't know what you've got down there. You've got something I didn't say.

Q I'm asking you what you remember. You say you can't remember things you said at the preliminary hearing.

A I didn't say that. I said I didn't say that.

Q We've gotten off that now, and I've begun to ask you something else. Do you remember what went on, what you testified to at the preliminary hearing?

A I remember a substance of what I said.

Q A substance?

A Yes.

Q And, do you remember having testified at the preliminary hearing that you told him of his rights three times that day?

A I don't know what I said at the preliminary hearing on that question.

Q You don't?

MR. GREER: Your Honor, I think he ought to read the question to him and establish some foundation so that the sheriff can answer the question and know what he's talking about.

THE COURT: You have to lay a foundation and give him an opportunity to refresh his memory.

MR. MCLAUGHLIN, III: Yes, sir.

THE COURT: Well, I don't think whether he advised him one time or three times makes any real difference.

MR. MCLAUGHLIN, III: Well, sir, we are trying to lay some foundation for it.

BY MR. MCLAUGHLIN, III (Continuing)

Q What I'm talking about, is you are being questioned as to why the tape recorder wasn't put on when Frank Satterfield first came in, and the question was, "Have you been in the practice of putting these things down on tape recorder?" And, you said, "For fifteen years." You tell a man of his rights and later on when you get the confession, you put it on tape?

A That is right.

Q But, you don't tape it when you first tell him of his rights?

A There is nothing to tape. Just tell him of his rights, when you are ready to incriminate, tell him again.

Q You did feel it necessary first to tell him of his rights?

A That's the law.

Q You make sure you are protected by making a tape of it?

A I do not think I have to go through lengths of proving myself, of telling the truth on the witness stand.

Q "I told him of his rights three different times that day", and now, this is a small bit, but I want to get it. Is that correct?

A That's right.

Q Now, tell me what those three different times were?

A When he first came into the office, at six-thirty that night and eight-fifteen that night.

Q Now, you say at six-thirty you advised him of his rights?

A Six-thirty to seven. I don't have the exact time I talked to him that afternoon.

Q Now, isn't it true, Mr. Coates, that when Frank Satterfield came into your office immediately before he made his statement that you went over with him what he was going to say?

A I brought him into the office. The two deputies brought him in there and took a seat, and I advised him of his right, and I found out what he wanted. He was going to talk about the case, and I told him, I said, "Wait a minute, Frank." And, I advised him of his right, and he told me the whole story as it was recorded here. I said, "Now, you have made this in the presence of witnesses. I want you to repeat the whole thing over again so I can record it on the recording machine."

Q So it was, and then on the recording machine, you advised him of his rights again?

A That's right.

Q So, that actually what you are saying is that you told him of his rights four different times?

A That's right.

Q Now, when you advised him of his rights, this is something that you have memorized. Isn't that correct?

A Well, I did memorize it. I have memorized it, yes.

Q So that when a man comes in, you say these things that you have memorized to him?

A The facts given here, yes.

Q And, would you recite what it is that you memorized?

A I first advised him who I am. And, I tell him, "you understand, Frank, you don't have to make any statements you don't believe if you don't want to. You understand that? Yes. You understand that any statement you make can be used against you in court? You understand that? Yes. You understand that you have the right to an attorney before you make the statement? You understand that? That's right. I reckon. I don't know about that. Now, wait a minute. You have a right to an attorney before you make a statement, make any statement. You understand that? Oh, Yes. All right, now. And, nobody has promised you anything?"

Q All right now, that's fine. Now, Mr. Coates, when you tell somebody, advise him of his rights, how do you know he understands what you are saying?

A Well, he says he does.

Q If he says he does, that's enough?

A Well, he understood everything else.

Q Now, when you said, "You have a right to an attorney", he said, "I reckon. I don't know about that."

A I said, "Wait a minute."

Q. That's right. You said, "Wait a minute." Now, it's a fact that when you went back and repeated it, you didn't change it a bit. You just said the same words?

A I said the same words. I said, "You understand that?" He said, "Oh, yes."

Q Now, Mr. Coates, when somebody doesn't understand something, isn't it usual to say, "in other words" and explain to them what it means?

A Well I repeated the same thing to him, and he said he understood it.

Q You repeated the same thing and he said, "yes", so you are assuming he understood that?

A Uh-huh.

Q Now you have had some dealings with Frank Satterfield before this have you not?

A Yes, sir.

Q What were those dealings?

A Forged a check on Harry Mapps a year or two ago.

Q And you investigated that?

A Yes.

Q Tell me something about that?

A I don't have that record up here.

Q Do you remember anything about it?

A I remember all about it but when you get to asking questions about it, I have to have my file on it. I can't tell various things about it.

Q Isn't it a fact that he forged a check in the name of—Harry Mapps name was signed to it and it was signed in Frank Satterfield's handwriting?

A I don't remember the details of it. It's been several years ago.

Q Well, did you have much difficulty in the case? It wasn't much trouble at all catching him on that case was it?

A I don't recall how much trouble we went to.

Q Now, Mr. Coates, I think you testified in the preliminary hearing what made you think Frank Satterfield was guilty. Was that when you said to him that the poison was in the beans and he said, "No, it wasn't put in the beans." Isn't that correct?

A That's one of the things, yes.

Q And, I think you put emphasis on that in the preliminary hearing. Isn't that correct?

A Doctor Wooding was the man that instilled it in my mind without any other doubt that it was put into the beans, and of course, that's what I was asking him about. And, he said, "No, the poison was not put in the beans".

Q Frank Satterfield told you that?

A That's right.

Q And, that made you think he must be guilty if he knew the poison had been put in something else? Now, when Frank Satterfield came to see you, did you have knowledge of the fact that he had thrown up and vomited before he came to see you and couldn't hold stuff on his stomach?

A No, I didn't have any knowledge.

Q While he was there, he was put into solitary confinement. Is that correct?

A We always do until we complete the investigation.

Q He was, in fact, put in solitary confinement?

A That's right

Q That was in the middle of December, and it was a cold night?

A That was January 19th?

Q January 19th, I mean. It was a cold night?

A I don't recall the weather conditions.

Q But, you wouldn't deny it was cold?

A I just don't know.

Q And, did you notice Frank Satterfield was wearing a short-sleeved shirt?

A I don't recall what kind of shirt he was wearing.

Q Now, Mr. Coates, you have been advising people of their right to have counsel for how long?

A Well, we have been advising them of their right to—ever since I've been over here, but every few years they add some more to it.

Q When did you start advising them of their rights to a lawyer?

A Whenever—I don't know. It's been a long time.

Q It's been a long time? And, you mentioned the fact that the standards of the law have changed over the years. Are you in agreement with these standards?

MR. GREER: I object, your Honor. I'm not in agreement, and it doesn't have any reflection upon a person who doesn't agree with some of the procedures coming out today.

THE COURT: I sustain the objection.

MR. MCLAUGHLIN, III: We don't suggest reflection of Sheriff Coates whatever opinion he may hold as to the

rightness or wrongness of the law. But, we think it is crucial to our case to show that Sheriff Coates does not agree with these laws.

MR. GREER: Polls show that over sixty percent of the people in the south don't agree with it.

THE COURT: I sustain the objection.

MR. MCLAUGHLIN, III: Well, since it's a capital case, we will except to it.

BY MR. MCLAUGHLIN, III: (Continuing)

Q Now, Mr. Coates, when this tape was on, did it run continuously from the time you turned it on to the time the confession was completed?

A No, sir. I cut it off once.

Q You cut it off once, and at the time you cut it off—correct me if I'm wrong. At the time you cut this tape off is when you said, "Well, now what was the purpose of putting it in there? Just tell me the truth about it? Answer: No certain reason. Question: You put it in there so they would drink it didn't you? Answer: No. I didn't want them to drink it. I just put it in there. Question: Why did you put it in there? Answer: I don't know." At that point, the tape was cut off?

A No.

Q Where was it?

A "And, you put it in there for the purpose of wiping them out to collect the insurance? That's what you just now told me. Is that right? Answer: That's right." Now, he wouldn't repeat that to me on the recording machine. I cut it off to refresh his memory, and I cut the machine back on to ask him that question.

Q Give it to me again?

A "And you put it in there for the purpose of wiping them out to collect the insurance? That's what you just now told me. Is that right? That's right." It's where he said, "That's right."

Q What page is that on? Four or five?

A Page six, middle ways of the page.

Q At that point you say, what did he say?

A He didn't say anything. He didn't answer the question, and I cut it off and refreshed his memory, and then I repeated the question, and he answered it.

Q That was almost the end of the confession?

A Just about the end.

A About how long did it take for you to get him to refresh his memory?

A Just a minute.

Q You wouldn't say it was over a minute?

A I don't know exactly the seconds and so forth.

Q Well now how long did it take, Mr. Coates? Would you say it could have been over a minute?

A I would say about a minute.

Q All right, about sixty seconds?

A That's right.

Q You don't think it could have been over three minutes?

A No, it wasn't over a minute.

Q Is the tape recorder here?

A Yes, sir.

Q We would like to have it turned on if we could. We have a stop watch here, Mr. Greer. Mr. Akers has checked it. We will have him testify if it's necessary unless you are willing to let us go on and use it.

MR. MCLAUGHLIN, JR.: We want to time this thing for the first five minutes.

WITNESS COATES: This whole thing is going to have to run, because that was the last of the statement.

THE COURT: Can you run the tape off?

WITNESS COATES: I can run it off, Judge. I don't have it down by the number.

MR. MCLAUGHLIN, III: We just want the beginning and the end of it.

THE COURT: I think it will unwind itself down to the end won't it?

WITNESS COATES: Yes, sir. I can get the first part and skip on over.

MR. MCLAUGHLIN, III: You are going to get the confession to where it began?

WITNESS COATES: I've already got it where it begins.

MR. GREER: What do you want to do?

MR. MCLAUGHLIN, III: We want to time—do you agree to let us have this timer used without Mr. Akers coming over here to testify?

MR. GREER: Ask the Court to do it.

THE COURT: What do you want to do? What are you going to time?

MR. MCLAUGHLIN, III: We are trying to time this confession, your Honor. The sheriff testified that the confession began at eight-fifteen and ended at eight-forty, which was forty minutes, which is twenty minutes, excuse me, twenty-five minutes. And, we have tried to test it, and it seems like to us it runs—we read this thing, the confession over, and it runs about eight minutes.

THE COURT: I don't think we can get at that accurately.

MR. MCLAUGHLIN, JR.: If the Court please, may I make this motion, that if the tape recorder ran approximately eight minutes as our indication of it would show, then there was an interval of seventeen minutes during which this machine was turned off. Our theory of the case which we expect to present evidence in regard to the testimony of the witness that several words and harsh words were spoken to Frank Satterfield as duress to have him make this confession, and I think that we are within the rights to have that matter determined by the Court, and I would think that this Court would want that to be determined to see whether or not this is a valid confession by the young man of very little education, and as we will show, a very low I.Q., on the very border line. And, for the further reason that it will be shown that Frank Satterfield himself did not ever know what the word attorney meant. We expect to show, sir, that he knew what the word lawyer meant, but he did not know what the word attorney meant which was memorized to him four times by Mr. Coates.

Now, I know that this Court would not want to have a confession of an ignorant man who did not mean to confess without full knowledge of his rights. I am sure the Court would want to hear that out. However, the Court may disagree, but we are bound by it, sir. And, for that reason,

I feel that the length of this confession which Mr. Coates, under his former statement, at the preliminary hearing and again today has said it was twenty-five minutes, be shown exactly how much it was and what was the interval between the time he turned the machine off and before it was turned back on. And, if that was so, then we have other questions to ask him and his deputies what went on during that period. I think it's very, very essential, sir.

MR. MCLAUGHLIN, III: We may have made a mistake, and it may not be nothing to it. We feel like in deference to our client that it ought to be checked out.

THE COURT: I don't think we can check on it with any accuracy, and as far as the tape is concerned, but I think that thing has minutes on it, and you can tell from the beginning and the end. You can tell how long it was on, the machine itself.

MR. MCLAUGHLIN, III: Maybe you could explain this to us.

WITNESS COATES: Maybe I can clear this up, this time of the interview. The interview was twenty-five minutes. Now, I didn't say that the recording was that long. I didn't mean to say it that way anyway.

CROSS EXAMINATION

BY MR. MCLAUGHLIN, III: (Continuing)

Q What you are saying is that this time this statement is not all on tape?

A From the time he came into our office wanting to make the statement to the time it was finished, I think is when the timing began and when it ended. I can't help what's on there. I think I made the mistake there. Ya'll misunderstood me.

Q All right, fine. Now, you said you made a mistake in the preliminary hearing, that I thought possible.

A That was the entire time we ran there.

Q What you are saying is the tape was not on from eight-fifteen to eight-forty?

A When the tape started and stopped, we cut it off for one time for approximately one minute.

Q So that this discrepancy of seventeen minutes is the time that you were talking to Frank Satterfield before the statement was made?

A I don't know how long this is, Henry, but the entire thing I think was twenty-five minutes.

Q And, when you said in the preliminary hearing what time did you start taking the statement, you said eight-fifteen. That was just a mistake?

A That's the time we started talking, but the first of it was over and then we recorded it.

Q I see. Okay. Now, when you talked to Frank Satterfield, it was in your office the first time. Isn't that correct?

A You mean that night or that morning?

Q And, it was there when you got the pictures on the walls and the bodies had been shot up, the swords and the knives and the guns, legends there of people that have been convicted?

A Oh, yeah, I have the board there on the wall, yeah.

Q And, his family—his family was allowed to come in to see him once. Isn't that correct?

A I don't know of any time his family was turned away.

Q But, he was not allowed to leave? He was in your custody from the time 12:30 on?

A 12:40 on.

Q All right. Mr. Coates, you stated—when did Doctor Wooding call you?

A On the night of the 18th.

Q The night of January 18th?

A That's right.

Q It was not December the 21st?

A No. I didn't know anything about it until December the 18th.

Q You stated that in the preliminary hearing. That was just a mistake of the month wasn't it?

A It probably was, because I didn't know anything about it until January the 18th.

Q Did anybody in the family ask you to have a doctor see Frank Satterfield?

A I don't recall if Frank needed a doctor. I don't know if he had one or not. If he needed one, we can always get one for anybody that's in jail.

Q Well, now, I want to get it straight about this particular defendant. Isn't it a fact that the family asked you before this statement was made by him that they would like to have a doctor look at him?

A I don't recall if they did.

Q You wouldn't deny that they did?

A I didn't see any reason for him to have a doctor.

Q Well, do you remember whether or not they did or not?

A Whether they asked me or not?

Q Yes, sir.

A I don't remember them asking me.

Q Isn't it true that at the preliminary hearing you said you didn't know but that they probably did?

A Well, it's the same thing. I don't remember if they did or not.

Q But, you did state at the preliminary hearing that they probably did?

A I don't know what I said at the preliminary hearing.

Q Now, isn't it true there was no doctor brought to him?

A I don't know that. When we place them in jail, that's the jailer's duty, and if they need a doctor, he can always get the doctor.

Q You don't remember whether or not he had a doctor?

A I don't know. It's not a case of remembering. I don't know, because I'm not there.

Q Would it be a record of it if he did?

A What did you say?

Q Would there be a record of it if he did?

A A record of whether—where the doctor charged his fee. He usually puts his name and the patient on the bill.

Q And you say you didn't think he needed a doctor?

A I didn't see where he needed no doctor.

Q And, if they had asked you for a doctor, would you have gotten him one?

A I certainly would.

Q If his family had asked you for a doctor, would you have seen that he got one?

A I would, if I had a thought he needed one, or if he had asked for one.

Q But, you don't remember whether they asked you and you don't remember whether or not you got a doctor?

A I don't remember whether they asked and I don't know whether they got one.

MR. MCLAUGHLIN, III: All right.

MR. GREER: That's all, sheriff

(Witness stood aside.)

Monroe Anderson

introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GREER:

Q Will you state your name and occupation please, sir?

A Monroe Anderson, deputy sheriff, Halifax.

Q Mr. Anderson, do you recall whether or not you were present on the night of January the 19th, 1966, at the sheriff's office when one Wallace Franklin Satterfield made a statement to the sheriff?

A Yes, I was.

Q What room was it in?

A In the sheriff's office.

Q Do you recall about what time it was?

A I don't know exactly the time. It was just guessing between seven-thirty and eight o'clock.

Q I see. Now, who else was present?

A Me and the sheriff and deputy sheriff Roy Pruitt.

Q Were the lights on in the room?

A Yes, sir.

Q Were you in uniform?

A Yes.

Q Tell us what you observed as Wallace Franklin Satterfield came into the room. Did anybody holler at him?

A No, sir, not as I know.

Q Did—what was his general appearance as he answered the questions?

A Well, he didn't look like he was too upset or nothing in the world—you want me to state just how?

Q Yes, sir. Tell it just like you saw it.

A Well, Mr. Satterfield sent one of the trustees up. I was in the sheriff's office—I mean in the deputies office there, and he said he wanted to see the sheriff. Well, I called the sheriff, and the sheriff came on over, and me and Mr. Pruitt went back and got Mr. Satterfield and brought him up to the sheriff's office, and that's when he confessed.

Q Did you stay in there the whole time Mr. Satterfield stayed in there?

A I stayed in there the whole time Satterfield was in there.

Q Did you—were you present when Satterfield signed the statement later?

A Yes, I was.

Q Did you witness the statement?

A Yes, sir.

Q The statement had to be typed up the next day, did it not?

A I think so.

Q Well, when you signed the statement, did he appear to you to be sick?

A No, sir.

Q Had he been fed when other prisoners were fed?

A As far as I know, yes, sir.

Q Did he complain to you either that night or the next day when he signed the statement that he was sick?

A No.

Q How long have you known Wallace Franklin Satterfield?

A I haven't known him too long.

Q He doesn't live in your neighborhood?

A No, sir, he don't. He lives back in the other territory.

Q Well, did anybody holler at this man or mistreat him in any way when he gave his statement?

A No, sir.

Q You have steam heat over there in that building don't you?

A Yes, sir.

Q Are the cells warm at night?

A Yes, sir. It's just as comfortable as they can be.

Q You are positive you were in that room with the sheriff with Mr. Pruitt and Satterfield the whole time Satterfield was in the room?

A Me and Mr. Pruitt went back to the cell, brought him out, carried him in the sheriff's office, stayed in there as long as Satterfield did, took him out, carried him back and locked him up.

MR. GREER: All right, sir. He's with you.

CROSS EXAMINATION

BY MR. MCLAUGHLIN, JR.:

Q Monroe, you are right familiar with the conditions in our jail are you, sir.

A Yes, sir.

Q Do you know whether or not the heat can be regulated from room to room where it's all under one central control system?

A I wouldn't know that, whether the back room is all separate or not.

Q If the sheriff wants more heat in his room, is not the thermostat in there he can turn up or down as the case requires?

A It's a thermostat plus there's one in the deputies office in the back, but as many times as I been in there, I don't know whether it's one in the sheriff's office or not.

Q Is there a thermostat in the solitary cell room?

A No.

Q Is there a register in there?

A Not as I know.

Q Is the heat that comes through the solitary cell does not come from the outside when the door is open and come through the bars?

A Yeah.

Q Outside the cell?

A That's right.

Q Now, sir, isn't it true that the solitary cell has a steel door or a lined door that shuts tight when a man is in solitary and he can't even see through the bars because of a solid door? Isn't that true, sir?

A The door to his cell has got bars on it, but between the cell he's got a steel door.

Q And, there in solitary, sir, isn't there a solid at the door where you enter?

A No, sir, not going in the cell.

Q It is not?

A No.

Q During the time that Mr. Coates questioned Mr. Frank Satterfield on the evening of January 19th, 1966, was this tape recorder machine turned on all the time?

A Yes, it was on.

Q Was it turned off at any time?

A Yes, it was turned off once.

Q How many times?

A Once, I believe.

Q Have you recently discussed this matter with the sheriff?

A No, sir, not me.

Q Has he discussed it with you?

A No, sir.

Q Now, Mr. Anderson, do you know why it was turned off during the course of the interrogation?

A Do I know why it was turned off?

Q Yes?

A Well, the sheriff asked Mr. Satterfield what did he poison that child for and put the poison in the drink, was it to draw insurance, and Mr. Satterfield dropped his head, no, sir, and he worried for a right good while, and then the sheriff cut it off, and then he raised up and said, "Yeah, that's what I put the poison in the drink for."

Q Is this tape recorder which is the so called oral confession or statement by Mr. Satterfield, are you familiar with that machine?

A No, sir. I don't know too much about it.

Q Do you know how many minutes? Does it show by the minutes how long a man testifies?

A No, sir. I wouldn't know.

Q Do you know the educational background of Frank Satterfield?

A I do not.

MR. MCLAUGHLIN, JR.: Thank you, Monroe.

(Witness stood aside.)

Roy Pruitt

introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GREER:

Q State your name and occupation please, sir?

A Roy Pruitt, deputy sheriff, Halifax County.

Q How long have you been with the department?

A Since January the 1st, 1964.

Q Mr. Pruitt, were you present in the sheriff's office on the evening of January 19th, 1966 when Wallace Franklin Satterfield gave him a statement?

A I was.

Q Who else was there?

A The sheriff and deputy sheriff Anderson.

Q Did you stay in there the entire time that Wallace Franklin Satterfield stayed in there?

A I did.

Q In the office of the sheriff?

A I did.

Q Did you later witness the signature of Wallace Franklin Satterfield to his statement?

A The next day.

Q The next day? About what time was that?

A Around twelve o'clock.

Q And, where was the statement signed by him?

A Up at the front office.

Q Up at the front office?

A Yes.

Q Who was there when he signed it?

A Sheriff, deputy sheriff Anderson and myself, and Robert Rugh may have been. I don't know.

Q And, at that time, how did Satterfield look when he came in to sign the statement?

A Well, he looked normal like.

Q Like he always did?

A Yes.

Q How long have you known him?

A I've probably known him as long as—I expect twelve years or more, twelve or fifteen years.

Q Twelve or fifteen years? He's known you that long too, has he not?

A Yes, sir.

Q Did he ever complain of being hungry, tired or sick that night or the next day?

A No. He never complained to me.

Q He never complained to you? Let's talk a little bit about this cell that they refer to as solitary. It's just a single cell, is it not?

A That's right, a single cell. It has a bed in it and everything.

Q You have a number of single cells over there, do you not?

A That's right.

Q And, the only difference in those cells and the bull pen is that they are single cells. Is that correct?

A That's right, six cells in a row, and the others are just one.

Q I see. When they talk about solitary, they are not talking about a dark dungeon anywhere are they?

A No, sir. We have one cell over there. There's no bed or anything in it, but Frank was not in there.

Q He had a bed and bedding and sheets and pillows and everything that every other prisoner had?

A He had everything just like the rest.

Q And that night when this statement was taken in the sheriff's office, he didn't make any complaints to you about any discomfort at all?

A No, sir.

Q And, the next day when he signed this statement in your presence, he made no complaints at all, did he?

A No, sir.

Q Did he ever request to have a doctor?

A Not to me, no.

Q Do you know whether or not he requested anybody else for a doctor?

A I don't know.

MR. GREER: All right.

CROSS EXAMINATION

BY MR. MCLAUGHLIN, III:

Q He didn't actually have any bedding in the room until he went to sleep did he? You were here when Mr. Coates was testifying?

A No, sir, I was not.

Q You were not? Well, Mr. Coates testified that they don't put their bedding in there until they get ready to go to sleep.

A Well, on the day he's locked up, you don't usually fix the beds at night when they lock the cell on the day you were locked up.

Q You don't recall whether the bedding was put in there before the confession, before the statement was made?

A I don't remember.

Q You were here when Mr. Anderson testified?

A Yes.

MR. MCLAUGHLIN, III: That's all.

* * *

(Witness Stood Aside.)

Bedford Satterfield

introduced on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Would you please state your name? Would you tell us your name?

A Bedford Satterfield.

Q Are you related to the defendant, Franklin Wallace Satterfield?

A Yeah.

Q What's your relation? What is the relation?

A What—with Frank?

Q Yes.

A He my son.

Q He's your son?

A Right, sir.

Q Do you remember whether or not your son was arrested on the day of January the 22nd—January the 19th of this year?

A He was arrested. I couldn't remember the date.

Q Now, I'm going to ask you about things that happened on that date. Did you come over here to the jail that day? Did you or not?

A Yeah, I came over here.

Q Did you have occasion to see—did you come over with anybody?

A Me and Lewis and my boy.

Q Who is Lewis?

A Lewis Tuttle.

Q And, your son's name?

A Yeah, my son.

Q Now, excuse me. I don't believe I am speaking up loud enough for you to hear me. If you came over here, did you have occasion to see the sheriff?

A Yeah, I saw Mr. Coates.

Q At what time was that?

A I would say about five o'clock.

Q What happened? What went on? Did you speak to him?

A Yeah. I talked with Mr. Coates.

Q What happened? What did you speak of between the two of you?

A Well, I asked Mr. Coates what he thought of it, and he said, "Well, Bed, I think you ought to let the boy stay on down here tonight, and I'm going to run him through a test in the morning." And, I said, "Well, Mr. Coates, if that's what you think is best", I said, "All right."

Q Now, what caused him—did you say anything before he said he thinks he ought to stay up there?

A I just asked him if he thought we could get him out and he said, "Well, I'd rather—I want to run him through a test in the morning." That's what he told me.

Q And, you asked him if you could get him out?

MR. GREER: Don't lead your witness. I don't want you to put words in his mouth.

BY MR. MCLAUGHLIN, III: (Continuing)

Q Well, you asked him if there was any chance you could get him out. Now, what did you mean by that?

A Well, I just asked him was it any chance I could get him out. and he said, "Well, you can get him, but I rather keep him over tonight and run him through a test" or something "in the morning." And, I said, "Anything you think best, Mr. Coates." And, I went on back home.

Q All right. Now, that night did you have occasion to hear anything from Sheriff Coates again?

A Yeah, about eight-thirty, nine o'clock, he called me up and told me, said, "You can come down here and get him." Said, "He done acknowledged to it." And, I said, "Well, Mr. Coates, I been sick and I'll wait until in the morning."

Q Now, when you came in that afternoon, why did you bring Lewis Tuttle along with you?

A Well, I—Tom wasn't at home, and I got Lewis Tuttle. We good friends, too, and he said, "Yeah, I'll go on his bond."

Q When was that?

A It was that same evening. It was that evening.

Q Now, I'm talking about in the afternoon, you said you came over here at five o'clock with Lewis Tuttle. Why did you get Lewis Tuttle to come over here with you at five o'clock?

A I just had him to come over so he could carry me back home.

Q You had him come with you to what?

A So I could get him out and carry him back home.

Q Now, you just testified that you asked the sheriff if there was any chance of getting the boy out?

A Yeah.

Q Now, how were you going to get him out? How did you plan to get him out?

A Well, I thought I would get Tom. Tom has got a whole lot of property and he would go on his bond.

Q Would that have anything to do with your reason of asking Lewis Tuttle to go with you?

A That's what I thought of. I would get him to come with me.

Q Why is it that you didn't get Lewis Tuttle to go his bond that afternoon?

A Well, Mr. Coates told me, said, "Well, Bed, you can do it, but I would like to keep him over so I can run him through a test in the morning."

MR. MCLAUGHLIN, III: All right, that's all.

CROSS EXAMINATION

BY MR. GREER:

Q Mr. Satterfield, did the sheriff ever tell you at any-time that your son wasn't entitled to bond?

A Well, he told me the next morning that he thought it would be the best if me and Tom would come down the next morning. He told me, he said, "I think we would rather keep him and send him up to Marian."

Q You are not responsive to my question. Did the sheriff, that first day on which you were down there, tell you that your son couldn't be bonded?

A No. He didn't tell me he couldn't.

Q He said he wanted to make a test the next day.

A Yeah.

Q That suited you all right, did it not?

A Yeah, that suited me, because I told Mr. Coates, I said, "Well, I'm for the right thing."

Q Then when the sheriff called you that night and told you that your son had confessed?

A I could come on and get him.

Q You could come on and get him, because it wasn't necessary to take the test. Is that right?

A I reckon. He didn't name no test or nothing like that.

Q But, at no time did the sheriff tell you that your son couldn't be bonded?

A No, he didn't.

Q And, of course, later when you talked to the sheriff about being bonded, the family and your—everybody wanted to send him off to the hospital, didn't they? So, that's why he wasn't bonded?

A That's right.

REDIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Mr. Satterfield, did Mr. Coates ever tell you how much bond was?

A If he told me—to tell the truth, I don't actually remember, because we were talking.

Q I'm talking about that afternoon that you came in?

A No. He didn't tell me. I didn't ask him. I didn't ask him what would it be for his bond. He just told me what he would like to do, and I said, "Well, Mr. Coates, I would like to do the right thing myself."

Q Did he indicate any preference whether he would rather you go his bond or not go his bond?

A Well, he said he would rather me not go his bond, not that evening, because he wanted to send him off to get some tests.

MR. MCLAUGHLIN, III: That's all. Thank you, sir.

(Witness stood aside.)

MR. MCLAUGHLIN, III: Your Honor, at this time, we would like to introduce a medical record signed by Joseph R. Blalock, M.D., John B. Birch, who are both physicians at the Southwestern State Hospital.

THE COURT: All right. Now, that's just for the purpose of this particular thing we are inquiring into right now?

MR. MCLAUGHLIN, III: Yes, sir. Now, your Honor, we discussed this with the Commonwealth attorney and it's my understanding with him—correct me if I'm wrong, that we are, on our own motion, introducing that part of the letter which has to do with the man's I.Q., and Mr. Greer, on his motion, is introducing that part of the letter as to the opinions of these authorities as to his legal standing. It's done that way, because the part as to the I.Q. is what we want in and the part as to legal sanity is that part he wants. We want it all in, but we do not want to be stopped from a later plea of incompetence, then if that's okay with the Court.

THE COURT: For the purpose of this argument, I think it's all right to just go on and put the letter in.

MR. MCLAUGHLIN, III: I'd like to read the letter. "Dear Mrs. Fox: The above named was admitted to our hospital on February 8th 1966, having been committed by your court for observation and report pursuant to Section 19.1-228 of the 1950 Code of Virginja, as amended. His charge is murder. Since admission, he has been carefully studied and history obtained so far as practical. As a result of our observations, we beg to report that he is not now psychotic or insane and that he has not been psychotic or insane since admission. Our official diagnosis is 'no mental disorder (mental deficiency, mild)'. Using the Wechsler Adult Intelligence scale, he scored a verbal I. Q. of 71, a performance I. Q. of 65, and a full scale I. Q. of 67. It is believed by the psychologist that he is able to function in the lower limits of mental deficiency, mild. He is, in our opinion, mentally competent and able to return to court and stand trial to testify in his own defense. In accordance with Section 19.1-230 of the 1950 Code of Virginia, as amended, it would be most appreciated if you would have the Judge issue an order and send for the patient in the next few days at which time it will be necessary for us to have an order for his release. Respectfully, Joseph R. Blalock, M. D., Superintendent, John B. Birch, M. D., Chief of Service." Signed by both of them. Copies to Honorable William Waller, Judge; Mr. J. Willard Greer, Commonwealth's Attorney; Doctor Hiram W. Davis, Department of Mental Hygiene and Hospitals, and it is addressed to Mrs. Helen P. Fox, Clerk, County Court of Halifax County.

We would like to call Sheriff Coates back for just about two questions.

previously introduced by the Commonwealth and previously being duly sworn, is recalled on behalf of the defendant, and further testifies as follows:

DIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Sheriff Coates, you knew the Satterfield family pretty well didn't you?

A Yes, sir.

Q And, you knew that Frank Satterfield had had only about a sixth grade education didn't you?

A No. I didn't know that.

Q But, you knew he was not as educated as the rest of the family?

A I didn't know what his educational background, status, was.

Q Did you have any indication that he was not a very intelligent person?

A No. I had some dealings with him a few years ago.

Q Wasn't it a rather senseless act, not a very intelligent crime that you investigated him in regard to?

A You mean several years ago?

Q Yes, sir.

A Well, it was a foolish thing to do..

Q And, when you questioned him first in your office, was anyone else there?

A That morning you mean?

Q Yes, sir.

A No. I don't believe it was.

MR. MCLAUGHLIN, III: That's all.

(Witness stood aside.)

Wallace Franklin Satterfield

the defendant, is called, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Would you please state your name?

A Wallace Franklin Satterfield.

Q Your age?

A Twenty-three.

Q Did you—were you in the jail down here in the jail on January the 19th of this year?

A Yes, sir.

Q How did you get there?

A I drove my car.

Q Did you go straight to the jail?

A Yes, sir.

Q Did you go into see the Sheriff?

A I went in to the desk and the woman told me that Mary Lou and Mr. Coates was up there in the other office and they would be back in a few minutes, just have a seat.

Q What did you do at that time?

A Well, I said, "I'm going ahead to get me a hot dog and a Coca-Cola", because I hadn't eat no breakfast and didn't eat nothing the next day either, the day before.

Q All right. What did you do?

A I went down and ate a hot dog and Coca-Cola and come out to the street and lost them.

Q What do you mean lost them?

A Went back and vomited up.

Q All right. What happened next?

A I come on back up there and in a few minutes, Mr. Coates come in.

Q What happened then?

A He called me to his office and I went on into his office.

Q He called you into his office?

A Yes, sir.

Q Where did you sit?

A I sit on the side of his desk.

Q Okay. What happened?

A He asked me, he said, "Didn't you kill that boy?" I told him, "No, sir." And, he said, "Well, I'm going to have you charged with murder before you leave here." I asked him what my bond is. He said, "Ten thousand dollars ($10,000.00)." And, I said, "Can I call J. Jim?" And, he said, "Yeah." And he started cussing.

Q What did he say?

A He was calling me a god-damned liar, a killer, a murderer, thief. He kept on like that about fifteen or twenty minutes, maybe longer.

Q And, what did you say?

A Well I told him I didn't do it, so he took me on back then and I called daddy from the back and daddy and Lewis came on over.

Q What did they say to you?

A Who, daddy?

MR. GREER: Objection. That would be hearsay, what they said to him.

MR. MCLAUGHLIN, III: Okay. Go ahead.

BY MR. MCLAUGHLIN, III: (Continuing)

Q Then, what happened next?

A Well, they took my fingerprints, took my picture, took me on back there and put me in the big cell, and then Mr. Coates come out there about twenty minutes later, and they put me over in the small cell.

Q Put you in the what cell?

A The big cell, I reckon what it was. And, then took me back and put me in the little cell.

Q What were you wearing at that time?

A A red short-sleeved shirt and a pair of overalls.

Q What kind of weather was it?

A Snow was on the ground.

Q What?

A Snow was on the ground.

Q Snow was on the ground?

A That's right.

Q Did this have any effect on you?

A It was cold.

Q You say it was cold?

A Yeah, it was cold.

Q And, I want to ask you if it was any effect on you?

A What do you mean?

MR. MCLAUGHLIN, III: Your Honor, we have introduced evidence to show this witnesses I.Q. and ask permission to be able to lead him to some extent.

THE COURT: What?

MR. MCLAUGHLIN, III: Having already been taken in evidence of his mental condition . . .

MR. GREER: I object, your Honor. He has got a full scale I.Q. of whatever that paper says—67, and most of these people we deal with in criminal cases are in that classification. He is bound by the . . .

THE COURT: Now, what was it you wanted?

MR. GREER: He wants to lead his own witness.

MR. MCLAUGHLIN, III: I want to be allowed to lead him on this—lead him to some extent on the ground that he does not have intelligence of the kind of witness you are not allowed to lead.

THE COURT: I think he can answer the questions all right intelligently. You can ask him the question. If he gets to where it does, why we may let you cross examine him. But, I don't believe you are entitled to it as the circumstances stand now.

MR. MCLAUGHLIN, III: I feel like I've got to that point now.

THE COURT: What is it that you want to ask him?

MR. MCLAUGHLIN, III: Whether or not he was cold?

THE COURT: Well, you can ask him.

BY MR. MCLAUGHLIN, III: (Continuing)

Q Were you sick at that time?

A Yes, sir.

Q Did you feel cold?

A Yes, sir. I about froze.

Q You say what?

A Cold. I was just about froze.

Q All right.

A I told Mr. Coates. Mr. Coates come back there about seven-twenty, and he took me to his office and turned the heater up in his office, and he cussed me about twenty minutes, and then he took me back. And, I told him—I asked him could I get a doctor and a bed and mattress, things to sleep on, and he said, "No. We don't give nobody no mattress and stuff to sleep on."

Q Was anything said about bond by anybody, either you or Mr. Coates?

A He told me if I would tell him I would testify I done it he would call daddy and then they could come get me.

Q How long have you been sick?

A Took sick that morning.

Q Sick that morning?

A I eat that hot dog, and it come right back up.

Q Do you have any idea why you were sick?

A No, sir. Had an upset stomach.

Q Did Mr. Coates advise you at any time that you had a right to counsel?

A He told me one time. That was during the confession that I had a right to an attorney.

Q Do you know what that word means?

A I didn't not then.

Q Do you know what it means now?

A Yes, sir.

Q At that time, you say you did not know what it meant?

A No, sir.

Q Did you know at that time what the word lawyer meant?

A Yes, sir. I knew what lawyer meant.

Q Why didn't you know what attorney meant?

A I just didn't know, 'cause I hadn't never paid no attention to them. I had just always heard them called a lawyer.

Q How many years have you been to school?

A I went right many years.

Q I mean what grade to did you get?

A I went to the sixth.

Q Through the sixth grade?

A Yes, sir.

Q What kind of grades did you get?

A I made F on everything except conduct. And, I made A on conduct.

Q You made A on conduct?

A Yes, sir.

Q You made F of everything else?

A Yes.

Q How come you graduated from one class to another?

A They just put me up every year.

Q Just put you up every year? Did you ever have any sickness when you were a child?

A Yes, sir.

Q What was it?

A I had menis meningitis.

Q What was the name of it?

A Menis meningitis.

Q Say it again?

A Menis meningitis.

Q What are you talking about? Spinal meningitis?

A I believe so.

Q Are you sure? Spinal meningitis?

A Yes, sir.

Q When was it that you had that?

A When I was in the third grade. I was nine years old.

Q You were nine years old? Now, tell me again. What did you think Sheriff Coates was talking about when he said you have a right to an attorney?

A I didn't know what he was talking about.

Q You didn't know what he was talking about?

A No, sir.

Q Why didn't you say something about you didn't know what he was talking about?

A I just didn't.

Q Were you afraid of the sheriff?

A Yes, sir. 'Cause I had—was cold, sick. I had been over here in court all day the day before over here.

Q Have you ever been in any trouble before?

A Yes, sir.

Q Did you have any dealings with the sheriff then at that time?

A Yes, sir.

Q You say you were afraid of the sheriff?

A That's right.

Q You say that he—now, did the sheriff advise you of your right to an attorney or lawyer before he put it on tape?

A No, sir.

Q Did he advise you of your right to remain silent?

A Not when that tape recorder was on. It was only when he told me about it.

Q Now, let me get it straight. I just want to get it straight. When you came—when the sheriff brought you in at twelve o'clock . . .

A He didn't bring me in.

Q Huh?

A I drove my own car in.

Q I mean when you went in to the Sheriff's office . . .

A Yes, sir.

Q Did you understand you could leave if you wanted to?

A No. He just—the woman in there told me Sheriff Coates wanted to see me, to have a seat. He would be back in just a few minutes. He was up at Mr. Greer's office.

Q You say a woman in there told you that Mr. Coates wanted to see you?

A Yes.

Q Had you seen the sheriff before that?

A I seen him that morning up at the house.

Q They told you that he wanted to see you?

A That's right.

Q When you went in his office. Isn't that what you said?

A I went inside the thing and sat down.

Q And, at that time, did Sheriff Coates advise you of your right to counsel?

A No, sir.

Q Did he advise you that anything you said could be held against you?

A No, sir.

Q When he came back at five, six o'clock that night, did he advise you of your right to counsel?

A No, sir.

Q Did he advise you of your right to remain silent?

A No, sir.

Q Did he advise you of your right to a lawyer?

A The only time he advised me of that was an attorney when he took it on the tape recorder. That was the only time he said anything about an attorney.

Q Has anybody discussed with you the significance of this since you have been arrested?

A No, sir. I don't reckon.

Q Have you talked with your lawyers about the question of whether or not confession is admissible?

A Yeah, I've talked to ya'll.

Q You have?

A Yeah.

Q So, has it been explained to you what attorney means?

A Yes, sir.

Q So that you know what it means now?

A Yes, sir.

Q Did you know what it meant at the time you were arrested?

A No, sir.

Q Did you know that at the time you made your statement to the sheriff?

A About what?

Q Saying that you killed your son on purpose, that you had poisoned your son?

A Make that clear. I didn't understand it good.

Q I say, at the time that you made your statement on this tape recorder to the Sheriff where you said that you had put this poison in that Diet-Rite Cola, at that time, did you know what the word attorney meant?

A No, sir.

MR. MCLAUGHLIN, III: That's all.

CROSS EXAMINATION

BY MR. GREER:

Q Mr. Satterfield, if I understood you correctly, you came over here to the Sheriff's office for what purpose?

A Well they come to the house that morning, and got Mary Lou, and she told me to come by and get her daddy, and I told her, I said, "There ain't no need to get your daddy 'till we see what's going to happen. I'll come on over here then if anything ah . ."

Q So, you came to the Sheriff's office yourself?

A Yes, sir.

Q And, you were coming to see the sheriff yourself, were you not?

A No, I come to see her—get her.

Q To see your wife?

A To get her and take her back home, yes.

Q So, when the sheriff came in to talk to you, he was mean to you there?

A Yes, sir.

Q And, he cursed you?

A Yes, sir.

Q For about twenty minutes?

A Yes, sir.

Q And, then he put you in jail?

A That's right.

Q In a cold room?

A Yes, sir.

Q And, you didn't have any food?

A They brought some back there, but you can't eat it.

Q Oh, I see. And, then the sheriff came over again later that night, and you say he was mean to you again?

A Yes, sir.

Q And, he cursed you?

A That's right.

Q And, then he put you back in a cold cell?

A He put me in a room back by myself.

Q And, then he left and then you sent for him?

A That's right.

Q Is that right?

A Yes.

Q Why did you send for him if he had been so mean to you all day long?

A 'Cause he told me I could go home, and he called daddy and them that night and they was right there—Roy Pruitt and Monroe Anderson.

Q Now, you've known Roy Pruitt for about twelve years haven't you?

A Yes, sir.

Q You never once told him you were sick did you? You saw him over there at the sheriff's office time and time again. You never told him you were sick did you?

A He didn't come back there but one time.

Q Well, that night when you went in the sheriff's office, and you made your statement, you didn't complain to him then that you were sick?

A I told Tom Coates I was sick. I wanted a doctor.

Q You didn't tell him in the presence of Roy Pruitt did you?

A No. They wasn't in there at the time, but he called them.

Q Roy Pruitt said he was in there with you the whole time?

A No, sir. He wasn't.

Q You say Roy Pruitt is lying then?

A That's right.

Q Monroe Anderson is lying too?

A That's right.

Q Everybody is lying except Wallace Franklin Satterfield?

A I'm telling you the truth.

Q All right. Now, the next day I suppose you shivered all night long—cold and damp. Is that right?

A I stayed cold all night.

Q You did?

A Yes, sir.

Q Did you get any breakfast the next morning?

A They cooked an egg, but I couldn't eat it. A cup of coffee. I drank the coffee and lost it right in the commode.

Q You never did tell anybody over there at the sheriff's office you were sick did you?

A I told Tommy Coates.

Q You never told Roy Pruitt?

A He didn't come back there the next day.

Q He came back the next day when you signed that statement. Now, what about that, sir. Were you sick when you signed the statement?

A Yes, sir.

Q You had a whole night to think about it after making it, and then you come back the next day and sign it after it was typed up. Who was present?

A Nobody but myself, Tommy Coates and Monroe.

Q Roy Pruitt said he was present when it was signed. Is he lying about that?

A He might have been standing back in the corner, but he wasn't around there where I could see him.

Q Uh-huh. And, they made you sign that paper against your wishes. Is that right? Is that what you tell the Court?

A He cussed me and told me I better sign it. Told me to sign it.

Q The sheriff cussed you again?

A That's right.

Q In the presence of Monroe Anderson and Roy Pruitt?

A That's right. I don't know if Roy was standing there. He might have been standing behind me. I know Monroe was standing there.

Q Now, you say you don't know what the word attorney means?

A No, sir. Not at that time.

Q Now, are you saying that the sheriff has promised you something?

A He told me I could go home.

Q Then why did you say in this statement when he asked you the question—Nobody has promised you any favors of any kind, made no threats towards you, and you answered no. Now, why did you say that?

A He told me to say it.

Q He told you to say it?

A Yes, sir. He told me I better make a confession so I could go home.

Q And, he makes this statement to you—And, you are making this statement of your own free will? And, your answer is—yes, sir. Now, who made you say that?

A He told me.

Q Did he make you say that?

A Yeah, he made me say that.

Q Did he make you say that you knew your wife and two children had been sick that night, the night before? Did he make you say that?

A They wasn't sick. I didn't know anything about it.

You made that statement and this statement....

A That's what he told me.

Q And, he made you say that?

A He didn't make me say it.

Q How long have you been working over at J. P. Stevens before you were arrested?

A Approximately three years.

Q What shift did you work?

A Second. I worked the third for a while and then they put me on second.

Q Do you have a driver's license?

A Yes, sir.

Q Have you been working full time at that plant?

A Yes, sir.

Q Supporting your family?

A Yes, sir.

Q Now, you want to tell us you are of such low mentality you didn't know what was going on in that room. Is that what you tell the Court?

A What do you mean?

Q You say that this whole statement here that you signed yourself, the next day after it was taken on this tape, you say all of that was forced upon you? Is that what you tell the Court?

A Tom Coates told me to say it. He didn't make me say it. I said it.

Q All right. That's all.

REDIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Now, Frank, did you tell Mr. Coates that you were sick?

A Yes, sir.

Q Did you ask that a doctor be sent there?

A I asked him for a doctor,

Q Did you ask him for anything else?

A I asked him could he get me a doctor.

Q Did you ask for any medicine?

A I didn't ask for no medicine—just asked him could he get me a doctor down there.

Q How were you feeling?

A I was feeling a upset stomach, heaving, couldn't keep nothing down. He would bring me a Coca-Cola back there, and I heaved it right back up the time they bring it.

Q So you hadn't asked for anything—food to eat or drink, huh?

A No; sir.

Q Now Mr. Gree has brought in new matter here about you working at J. P. Stevens. What type of work do you do there?

A I hang warps.

Q Is that a simpleoperation?

A Yes, sir.

Q What do you have to do with your hands?

A Just lay them in there.

Q Pick up something?

A That's right. Just pick it up and lay it over in there.

Q That's all you do?

A Yes, sir.

Q You don't work in the office? You work physical—maybe pick up something over here and put it a few feet away?

A That's right.

Q That's all you have to do?

A We have to put it in there, take the truck and—see, I have two men working with me. Me and another man.

Q Yeah?

A And I just help him. He showed me.

Q What does he do?

A See, me and him work together. We got six hundred and some looms. We have to work by-ourself.

Q What do you do with the looms?

A I put the warp back up in there.

Q What does it consist of? You say you lift something here. What do you lift up?

A That's the warp. You have to lift the warp up with your hand.

Q How far do you carry it?

A Just a little way.

Q How far?

A Just pick it up—I would say about a foot, a foot and a half. Just pick it up and put it over here.

Q About a foot. What's the warp made of?

A Steel.

Q Huh?

A Steel.

Q It's not made of any kind of cloth material?

A No, no. Warp isn't.

Q You take some steel thing and move it about a foot?

A That's right.

Q And, you do it from different machines?

A That's right.

Q And, you say a man helps you?

A Yes, sir.

Q What does he do?

A He works one end, and I work the other end.

Q I see. And, both of you lift it together?

A That's right.

Q And, you put it in one place?

A That's right.

Q One after another? Do you go up a line of machines and do that?

A No. Maybe sometimes you liable not to do nothing for a week. Just depends on when they run out.

Q Mr. Greer is talking like this takes a lot of brains to lift up something and move it a foot. Does it take any brains to do that?

A No, sir. The only thing it is, you have to be mighty careful. So many people working in there. You liable to hit one of them. That's the only thing to do. You have to be mighty careful.

Q Frank, when was the mattress put in your cell that night?

A It wasn't any put in there.

Q After you were taken out of the cell at eight-fifteen and took up to Mr. Coates office, did you say anything about your condition?

A Yeah. I told him I was sick.

Q Were you warm or cold?

A I was cold, about froze.

Q What did Mr. Coates do?

A He turned the heat up.

Q Turned the heat up in his office?

A That's right.

Q What was the first word said to you by Mr. Coates?

A When? Before I made the confession?

Q What was that?

A Huh?

Q Yeah, before you made the statement?

A He just asked me did I kill that boy. I told him no, and he started cussing. He said, "I know damn well you did." I said, "No, I didn't."

Q I mean that night you had sent word for him to come. You sent word for him to come on over. You were going to make a statement. Is that right?

A That's right.

Q You did say that?

A (Defendant nodded his head to indicate yes.)

Q Now, you went up to his office and he turned up the heat. Now, how long were you up there?

A Before when I was making the statement?

Q Yes.

A He got there about eight o'clock, and I was back there until about ten minutes to nine.

Q As I understand, you go through a rather long corridor to reach his office at the front of the building. Is that correct?

A That's correct.

Q And, you say he turned up the heat then, and then what was said then? Anything?

A He just said, "are you going to tell me the truth, and are you going to tell me you done it. And, I will let you go on home. I will call your daddy and he can come get you tonight."

Q And; then you made a statement in compliance with what he said to you?

A That's right.

Q Then, where you—where were you taken back then? Were you put back in solitary—a solitary cell?

A Yes, sir.

Q Or, were you put back with all the rest of them?

A Put back in the little cell.

Q Huh?

A I was put back in the little solitary cell.

Q When you went back there, was a mattress on your bed?

A No, sir.

Q What time of night—well, we know what time it was. How soon was any mattress brought to you?

A They didn't bring no mattress.

Q Did you sleep on the bed that night?

A Yes, sir.

Q Or, did you sleep on the floor?

A I sleep on the bed. It won't a mattress on it.

Q Did you have a pillow?

A No, sir. Had a little thin jacket, and I put that up there for my head.

Q Huh?

A I had a little thin jacket, a little wind breaker. I had to use that for my pillow.

Q That was before you made the statement.

A That was after he put me back there after I had done made the statement.

Q Well, they said they had put mattresses in there then.

A No, they didn't. They didn't put no mattresses.

Q You mean they put no mattress in there at all?

A No, sir.

Q When were you taken out of there and put in another cell with other men?

A I won't put in there. I stayed there all the time until after I went up Marian.

Q Now, a few days later you had a hearing to send you down to Marian?

A That's right.

Q Did you have a lawyer at that time?

A No, sir.

Q And, after that your people came to see me?

A That's right.

MR. MCLAUGHLIN, III: That's all.

(Witness stood aside.)

NOTE: Mr. McLaughlin, III has asked the sheriff to get a witness, Odell Abbott, who is on call.

THE COURT: Is it any point in getting Odell? Can't you stipulate?

MR. GREER: All she can say is that was the way she understood it.

MR. MCLAUGHLIN, III: Your Honor, we just got the statement from here which she said was correct, and as I have read it, the only discrepancy is the sheriff said in this statement. The question was asked the sheriff—if you told him if he confessed you would give him bond, and he said, I don't know.

MR. GREER: I've never seen this, your Honor.

THE COURT: Look at it. I think you can stipulate.

MR. GREER: It may be that I want to stipulate to more than that one statement.

MR. MCLAUGHLIN, III: We will be glad to have the whole thing stipulated.

Sam Rogers

introduced on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Mr. Rogers, did you come over here on the night of January the 20th—on the morning of January 20th?

A I come, yeah.

Q Came over to the jail?

A Yeah.

Q Did you have occasion to speak to the sheriff?

A I asked to see him.

Q You asked to see him?

A Yeah.

Q Did you see him?

A Yeah.

Q What went on?—in this conversation?

A Well, he stated to me that he had the boy up for murder and convicted him and all. And, I told Mr. Coates, I said, "Ain't that going a little too far"?

MR. GREER: I didn't hear what the witness said.

THE COURT: Talk a little louder.

BY MR. MCLAUGHLIN, III: (Continuing)

Q Talk a little louder.

A I went in there and I asked Mr. Coates about going the boy's bond. And, he then brought up—he wanted to appear to me that the boy was already guilty. That he had him charged him with murder.

Q Go ahead. Just tell us everything that happened in this conversation.

A And, I asked him. I said, "Mr. Coates arn't you going a little bit too far?" I said, "You are trying the boy before he's even tried." He said, "Well, I know it." He said, "Well, I'm the sheriff."

Q What I am trying to get to where, did you have occasion to discuss the subject of Frank Satterfield's health at this time?

A Not then, not until I went to the cell to see him.

Q When did you go to the cell to see him?

A That morning.

Q This was the morning after January the 19th?

A That's right. And, he—the boy was sick.

Q You say what?

A The boy was sick, vomiting.

Q He looked sick to you?

A Yeah. He was sick.

Q Did you say anything about this to the sheriff?

A Yeah. I asked him to get the boy a doctor down there. He said, "Well, I will." But, he didn't.

CROSS EXAMINATION

BY MR. GREER:

Q What is your relationship to Mr. Satterfield, Mr. Rogers?

A I married his sister.

Q You married his sister? And what the sheriff actually told you on Monday morning was that the boy had confessed to putting the poison?

A That's right.

Q In the bottle. Isn't that what he told you?

A Yeah.

Q And, the sheriff at no time denied this boy's right to have bond, did he?

A Well, not as I can say, no.

Q Didn't the family want this boy sent off to Marian to be examined?

MR. MCLAUGHLIN, III: Your Honor, we object to that.

MR. GREER: Well, you are asking him—he is in the family.

MR. MCLAUGHLIN, III: I didn't ask him anything about the bond. I wish I could, but he didn't know anything about that. He came over the next morning.

THE COURT: He testified about the bond?

MR. MCLAUGHLIN, III: No, sir. He hasn't testified at all about the bond as I remember. He talked about him being sick. Excuse me. You said something about bond the next morning. I am sorry.

WITNESS ROGERS: That's what we went over there for—bond to get the boy out.

BY MR. GREER: (Continuing)

Q Well, the sheriff never told you he could not be bonded did he?

A Not as I can recollect.

Q And, the family didn't want to bond him did they?

A Yes. We were over there to bond him.

Q But, you decided not to bond him didn't you?

A Well, Mr. Coates said they were going to send him off down and give him a lie test.

Q Well, he didn't do it?

A The next thing I heard from the boy after that, he was sent to Marian, given a hearing just unbeknowing to any of us.

Q Didn't you all talk to Mr. Coates about him going to the hospital?

A Yeah.

Q And, the family wanted him to go to the hospital didn't they?

A I told them it would be perfectly all right.

Q Did—so, that's why they had a hearing to send him to the hospital because everybody was in accord. Isn't that correct?

A Yeah, but they just brought him right up here to the hearing and never let nobody else know nothing about it.

Q Well, you employed Mr. McLaughlin—the family did?

A Not at that time.

Q I know, but he was employed by the following Saturday, and the boy was here from that time until some time

in February before he was sent to Marian. He was here for several days, maybe as much as two weeks after Mr. McLaughlin was employed?

A Not no two weeks after he was employed.

Q Well, we don't have a calendar, but that could be determined very easily. So, Mr. McLaughlin did not object to him going to the hospital? Did you know that?

A No, I didn't object to it.

Q And, Mr. McLaughlin didn't object to the bond being too excessive or anything. Nobody has ever claimed that have they?

A No.

MR. GREER: All right, sir. That's all.

REDIRECT EXAMINATION

BY MR. MCLAUGHLIN, III:

Q What I was asking you about was you told him he ought to get a doctor. Is that right?

A I told him the second time, and the third time, I had to hire a lawyer to get the boy a doctor down there to the cell.

RECROSS EXAMINATION

BY MR. GREER:

Q Did you hire Mr. McLaughlin?

A Yeah.

THE COURT: Any other questions?

MR. GREER: No, sir.

THE COURT: Thank you, sir. Stand aside.

* * *

(Witness stood aside.)

MR. MCLAUGHLIN, III: All we have left, your Honor, is the preliminary hearing, and we think if we can get that in the record.

MR. GREER: Well, don't you have any page number of what you want?

NOTE: Mr. Greer and Mr. McLaughlin, III are conferring.

MR. GREER: I can't stipulate to anything, your Honor, because they want to stipulate the whole transcript.

THE COURT: All he wants to do now is, I suppose, is bring Odell here to show that she would testify she recorded the whole thing as best she could, according to her understanding.

MR. GREER: That's all she can do.

THE COURT: That's all she can do, and that's all you want to stipulate.

MR. MCLAUGHLIN, III This is her recollection of what happened?

THE COURT: Yes.

MR. MCLAUGHLIN, III: If you will stipulate that?

THE COURT: That's all she can testify to.

MR. GREER: That's right. But, I'm not putting this into the record.

THE COURT: No, except what he's already read into the record.

MR. MCLAUGHLIN, III: Well, I was going to read to her the statements that were made.

THE COURT: You've already done that. It's in the record I think. All you want to stipulate now is Odell Abbott took the evidence and transcribed it to the best of her ability.

MR. GREER: I will stipulate that she would say that if she was here.

MR. MCLAUGHLIN: Your Honor, I put these things in the form of a question. This is a technical question. Should it be read now as a stipulation that this is in fact, because I'm not allowed to testify myself?

THE COURT: I think you've got it in evidence, because you've already questioned the Sheriff about it. I think all you need to say now is that if she were present, she would testify that she took the evidence and recorded it to the best of her ability.

MR. MCLAUGHLIN, III: And, recorded things which I stated to the sheriff was in this.

THE COURT: Yes. That's already in the record. All you can call the court-reporter for is to show that it is correctly recorded.

MR. MCLAUGHLIN, III: Can we put this things in as an exhibit?

THE COURT: No, I don't think so. That would have to go to the jury if you did that.

MR. MCLAUGHLIN, III: Well, we can.

THE COURT: That's all you could ask her if she came here. You could ask her if she properly recorded it.

MR. MCLAUGHLIN, III: She has a certificate at the back, Your Honor, signed by her.

THE COURT: That's all you can show by her.

MR. MCLAUGHLIN, III: The only thing I know is that I know counsel is not allowed to testify, and what I asked him is not part of the evidence. If you said she says this is a correct transcript, nothing can go into the record as to what was in this transcript in the form of testimony.

THE COURT: Except what you've asked the Sheriff in regard to it. You read the questions to him.

MR. MCLAUGHLIN, III: But what is in here and what the Sheriff said don't fit.

THE COURT: But, you are going to show by her that she recorded it to the best of her ability. That is all you have got.

MR. MCLAUGHLIN, III: Yes, sir. But, I thought I would have to get her to read these statements rather than have my questioning be evidence.

THE COURT: The purpose of this hearing—it's no point in her—it's in the record, and if she says that it is the best she could do, why that's it.

MR. MCLAUGHLIN, III: That's all we had.

At the conclusion of the above evidence, counsel argued the admissibility of the confession into evidence. The argument is set forth below in its entirety:

[TR. PP. 192-222]

THE COURT: Did you want to argue?

MR. GREER: Yes, sir. Your Honor, this statement taken on January the 19th, 1966, in the sheriff's office of Wallace Franklin Satterfield in the presence of Deputy Sheriff's Roy Pruitt and Monroe Anderson touches all bases, all bases insofar as the requirements of the many, many decisions concerning the constitutional rights of a person charged with a crime.

It's the best statement that I have ever seen the sheriff take, because he tells this man who he is. He properly identifies himself. And, he tells him that you don't have to make a statement. You don't have to make any statement to me if you don't want to. You understand that? And, the defendant says, "yes". And, he says—the next question—"You understand that any statement you make can be used against you in Court? You understand that?" The defendant says, "yes". And, then he says, "you understand you have the right to an attorney before you make a statement? Do you understand that? That's right. I reckon. I don't know about that. Now, wait a minute. You have the right to an attorney before you make any statement. You understand that?" And, the answer is, "Oh, yes." Not, just plain yes. It's "Oh, yes." All right. "Now, has anybody promised you anything? No. Nobody has promised you any favors of any kind, made no threats towards you?" And, the answer is, "No." And, "you are making this statement of your own free will?" Answer, "yes, sir."

The question—"All right, Frank, now on December 21st, tell me what happened." And, then he asks him these series of questions in which he goes into the circumstances. And, then, over on the last page, the sheriff asked him if it was anything else he wanted to say about this matter, and he said, "No, I don't reckon it is." And, then he asked him, "Frank, now who is in here listening to you while you make this statement besides myself?" He says, "Roy Pruitt, and I don't know him." Question—"Roy Pruitt and Monroe Anderson. Both of them are deputy sheriffs. Both of them have on uniforms. Correct?". Answer—"That's right."

Question—"You have given this statement of your own free will and accord?" Answer—"That's right."

Now, that was put on this machine, which counsel for the defense has listened to. They have had copies of this statement previous to today.

And, the next day around noon, Satterfield signed this statement. And, as witnessed by these two officers signed in the presence of the sheriff.

And, all of this that we have heard here a good while, I submit to you, your Honor, has been frivolous, petty objections to get around the introduction of this very incriminating statement.

Now, this man hadn't been mistreated. Nobody has mistreated him over at that jail. He's known one deputy for twelve years. And, his father and Mr. Rogers and Mr. Tuttle and all the people from Turbeville, they know the sheriff, and they know Mr. Pruitt, and they know Mr. Anderson. And, they know he hasn't been mistreated.

So, I submit to you that because of these absurd decisions coming out of Washington concerning the rights of the individuals who are in custody and are being interrogated because they are charged with crimes, that we are going to be faced with this type of thing in trial after trial.

This statement is fully and completely voluntary, and even the Miranda decision says voluntary statements are admissible. They are not interfering with regular routine procedure so long as it is voluntary.

You've got this element in this case, Your Honor. The Sheriff talks to this man about six-thirty, and he doesn't want to talk to him. So he says, "Well, Frank, I am going home, but if you decide you want to talk to me, you just let me know and I will come back." So Frank goes on back in that cell, and he reflects upon his relationship to himself and to his family and to society, and he decided he wants to talk to the Sheriff. So he gets Mr. Monroe Anderson to call him. And Mr. Anderson calls him, and he comes on over.

And, so nobody has done anything to this man except himself. And through his own shame, and through his own

guilt, he made this statement. And with the other corroborated evidence, it's the best evidence in the world for this corpus delicti crime committed. And I submit to you that society will not long survive if criminals can be released on society because of the frivolous, petty objections that we heard in the courtroom today.

And I say in the name of all that is Holy, in the name of all that's right and good, that this statement is admissible evidence against this man.

Thank you.

MR. MCLAUGHLIN, III: May it please the Court, I apologize to Mr. Greer and the Court for this rather disjointed manner in which I questioned these witnesses on the questioning of the admissibility of the confession.

We think we can show from discussing this record that our objection to this thing is not a matter of frivolity and pettiness, but rather it's a matter of law, and it goes to the heart of the law as handed down by our courts. And Mr. Greer says that these decisions are absurd. He has stated while we were here or here that most of the people in the country disagree with these decisions. But, that's not the question today.

The question is, what is the law and what must be the decision on the law. Now this is a case which I borrowed—Miranda versus United States. This decision came down, I believe, from June the 13th of this year. Now the decision says a number of things, but as relevant to the facts we have here, these are the things the decision say.

It says the Sheriff must inform suspect that he has a right to remain silent; that he does not have to speak. He has to be warned that anything he says can be held against him. He must be informed that he has a right to counsel, to a lawyer. He must be informed that he has a right to an appointed lawyer.

And, this is a crucial point. This is the form that the Sheriff is required to go through. But the crucial thing here is that the Miranda case says that to make it clear to that suspect what he is talking about.

Now the case says that the defendant has got a constitutional right to have a lawyer there in the room while he is being questioned. And unless they have a lawyer there in the room, they cannot question him unless the defendant intelligently and with understanding of what it going on—unless he intelligently waives the right to have counsel there.

Now, Mr. Greer may not agree with this. The sheriff may not agree with this. But, that is the law. And, unless you have that rule that it had to be an intelligence witness, there wouldn't be any sense in having the rule, because it would become just a mere form if the sheriff could say something to the defendant, and the defendant didn't understand it.

Now, of course, there is a conflict in the evidence here. But, we recognize that it is awfully rare that a man who comes up before a court and says I will confess, but it wasn't true, to have his word taken over the sheriff. And, we are not here to attack Sheriff Coates's character. That's not the reason we came here. But, we do say that Sheriff Coates honestly, in his heart, is fundamentally at odds with the law. He honestly doesn't, we think—we can now get this from the record, that he fundamentally, in his heart, doesn't agree with these decisions. So, what does a man do when he is faced with a decision he doesn't agree with?

The Commonwealth's Attorney made it very plain he doesn't think a thing of these decisions. Now, what do you do when you are faced with the situation. You have got a law. You have got to live with it. But, you don't like it. You pay lip service to it. You memorize something and then you say it.

Now, we don't know what went on in the sheriff's office with the guns and the bullets and everything facing this man. We don't know what was said then. But, the sheriff said he memorized this thing to him. He said he told him four different times—you have a right to an attorney. He told him once at twelve-thirty. He told him again at six. That's twice. He told him again at eight o'clock when the man came in—about eight-thirty to make his statement. He says that time he told him. That makes the third time. Then, he told him the fourth time when the tape was on. And, after being told this four times, the suspect says—"Well, I reckon, don't know about that."

Now, the question is, did the sheriff then inform him of this right to counsel in a way he could understand it. Now, let's look at it—what this confession says, what it says from the tape. It says that "you understand that you have the right to an atorney before you make a statement? You un-understand that? That's right. I reckon. I don't know about that. Now, wait a minute. You have the right to an attorney before you make any statements? You understand that?" He said exactly the same words.

MR. GREER: What was the answer?

MR. MCLAUGHLIN, III: The answer was "Oh, yes." Now, you made that point in your argument. I will get to that in a minute. I am trying to talk about what the Sheriff is doing. Now, he says, "You understand you have to—the right to an attorney before you make this statement? You understand that?" And he expresses some—now, if a man doesn't understand what you say and you say the exact same words to him, how does he understand it anymore? If you have got a man who comes down here from Lynchburg and stays, "I want to get to Sinai, and I want to get to Green's

Folly." And, you say, "You go down this road here 'till you get to Sinai, and you can take a right. Do you understand that?" And, he says, "Well, I reckon. I'm not sure about that." Well, now, you don't say, "Well, you go down to Sinai and you take a right." You don't say that. What you do say is, "Well, you go down here until you get to a little sign that says commercial property, and it's got a Shell station, and in between that Shell station and commercial propefty, then you take a right." That's what you do if you really want to explain to him how to get to Green's Folly. I mean, if you want to explain something to somebody, you say in other words, and you explain it in other words.

And, had the Sheriff really wanted him to understand it, he would have said, "Now, you've got a right to have a lawyer." And, "He knows what the law is, and he knows your rights. He can come down here and advise you what is best for you." But, the Sheriff didn't do that.

Well now why didn't the Sheriff do that? Because the Sheriff feels like that these decisions that are coming down are mighty depressing to him. Now it's very understanding that the Sheriff would feel that way. Of course, he feels that way. It's his job to convict people, and here these decisions come down and say you have got to make this man understand this. And he doesn't like this. And a lot of people don't like it.

Well what the Supreme Court, in essence, has said is—they have said, those of you who are prosecuting people, it's your duty—we invite you to, instead of becoming people who get your evidence to confessions is to channel those energies that you have got, the things that you have learned how to get confessions out of people, and instead of doing that, learn to get objective evidence.

The Commonwealth attorney says if we can't put this confession in, we don't have any case. Well, why don't they

have any case? They say we don't have the bottle. Why? Have they looked for the bottle? Have they had the F.B.I. down? I can't believe that this is just an unsolvable crime without a confession.

And, whether the Supreme Court is right or not, that has been their position—is just relying on confessions makes the police rely on that and not go ahead and look into other things.

And, we submit, your Honor, that the evidence in the trial, regardless of whether the confession is admitted, is going to show that there is very serious doubt about this man's guilt. It's going to show there are some things that just don't fit together and these things should have been invesigated by the police.

Now, it's true the police have got a hard job. They have got limited time. They are overworked. And here you have got a case that's a capital case. And it's a heinous crime, if it is a crime. And, it should be prosecuted vigorously. What happened is they get a confession and they fold their arms. And whether the Supreme Court is right or wrong, the Supreme Court is discouraging this method of getting confessions. And it really is nothing new.

Throughout the history of our law, there has been more and more—even back in old English law where they said you have to have—you have to prove your habeas corpus. This was the beginning of putting limits on what you could get out of a confession.

Now, we are not here saying that this confession is involuntary. Now we have brought in these things about him being sick. We brought in these things about him promising the bond, because these are added things. But our basic point is that this man did not understand; he didn't make any intelligent statement of his right to counsel.

Now, we went through the questioning, and it was the—a little bit confusing. But I think the record shows that the main point is that he didn't understand that he had the right to counsel.

Now, Mr. Greer said in his opening argument that if it was a voluntary confession, it's admissible. That was the law previously. That's no longer the law.

And I would like to quote from the Miranda case on that. In the Miranda case, it says that even that those confessions that they were dealing with would be considered voluntary.

It's true that he called for the Sheriff, but the Miranda case did say that regardless of whether or not this confession is voluntary, if this man didn't make an intelligent waiver of his right to have counsel there, to have a lawyer there; he didn't make an intelligent waiver, and they can't question him at all.

It's just like this man from Chicago that they caught for murdering all the student nurses. They have not even questioned that man for killing all of those nurses. They have not questioned him at all. But they have got the evidence against him.

This is what the Supreme Court has said about this question of intelligent waiver. It goes on to talk about—it says, "This does not mean that the police station must have a station house lawyer present at all times to advise prisoners. It does mean, however, that if police propose to interrogate a person, they must make it known to him that he is entitled to a lawyer. They must make it known to him that he is entitled to a lawyer, and that if he cannot afford one, a lawyer will be provided for him prior to any interrogation. If they don't provide counsel, they can't question him." Now it goes on to make an exception.

It says, "if the interrogation continues without the presence of an attorney, and a statement is taken, they have a

burden that rests on the government to demonstrate that the defendant knowingly and intelligently waived his privilege against a self incriminating statement in his right to obtain appointed counsel."

Now that is the heart of the reason that this confession is inadmissible. It says the government has a heavy burden to demonstrate that the defendant knowingly and intelligently waived his privileges against self incrimination. Well, there is no argument there but that his rights of appointed counsel—and, it says that this Court has always set high standards of proof for the waiver of constitutional rights, and we reassert these standards as applied to in custody interrogation. In other words, that means they put him in here in this Sheriff's room. This man is looking at all these scary pictures of all these people on the wall, and they have got him in there. And, they are responsible for having him there. It says since they are responsible for that for establishing the isolated circumstances as applied in custody, the isolated circumstances under which the interrogation takes place and have the only means of making available corroborating evidence of warnings given to him incommunicado. The burden is right on the Sheriff, and they had the opportunity when they had him there at twelve-thirty to get a tape recorder on at that time. It's not any harder to cut it on at twelve-thirty than it is to cut it on at eight o'clock after you have had him all primed and ready to talk. They could have cut it on at twelve-thirty. They could have made it clear on that tape that he understood his right to counsel. But, it wasn't done. An expressed statement that the individual is willing to make a statement and does not want an attorney. This man never said I don't want an attorney or lawyer. Followed closely by a statement could constitute a waiver, but a valid waiver will not be presumed simply from the silence of the accused after warnings are given.

Now, that's what we've got here. That silence of the accused after warnings are given. He doesn't say—well, he wants a lawyer. He said finally, "I understand. Oh, yes."

But,—or simply from the fact that the confession was in fact eventually obtained. In Conner versus Cockran a statement is applicable here. "Presuming waiver from the silence is not permissible." Now we are talking about what happened at twelve o'clock. The record must show that an accused was offered counsel but intelligently and understandingly rejected the offer. Anything less is not worth it.

Now the Sheriff never asked him, do you want a lawyer? He just said, you've got a right, a right to it. Moreover, when an in custody interrogation is involved, there is no room for the contingency that the privileges waived of the individual—let's see. "Whatever the testimony of the authorities as to the rights of the accused, the fact of lengthy communication or incommunicado incarceration before a statement is made is strong evidence that the accused did not validly waive his rights. And the circumstances, the fact that the individual eventually made a statement is consistent with the conclusion that the impelling influence of the interrogation finally forced him to do something that is inconsistent with any notion of voluntary relinquishment of the prisoner involving any aspect that the accused was tricked into a waiver."

Well, certainly the accused did not voluntarily waive his privileges. Now, there is some conflict in the evidence here. It's here in the record at the preliminary hearing the Sheriff told this man— the Sheriff testified he hold this man he was a friend of his family. It was in the record at the preliminary hearing and he didn't remember. He didn't know whether or not he promised bond. It was also in the record that he even said—he also says now that he doesn't know

whether he called the father and told the father exactly what the father says he called him and says you can come get him, that he did say well, now you can get the bond if you tell the confession. It is also in the evidence and is not—in my understanding, I may be wrong in this. But, I don't think the Sheriff has denied this, that Bedford Satterfield said he came in and the Sheriff said, "I'd rather you didn't take him out on bond."

Now, in the context of the Miranda case, this is incommunicado incarceration. The Sheriff didn't want this man out on bond. He wanted to get that confession from him. Now, there is nothing wrong with him wanting that. There is nothing wrong with him wanting that. But, the truth of the matter is what the Sheriff believed to be what he could get by with and what he couldn't get by with were just two different things.

Under this Miranda case, if this Miranda case applies, his confession is not admissible. I think Mr. Greer indicates his confession is admissible, because it's a heinous crime. It's a bad thing for society not to have this confession.

The law here is plain. Now, I would like to go in for just a second the fact that this Miranda case applies to this confession. The Miranda case came down, I believe—I think it was June the 13th. Two days later, the court came down in the case of Johnson versus the United States—the United States versus Johnson, and in that case, they stated in that case—I can't find it in the reports. It may be in the loose leaf. but we have that case in "The Law Week", and it's 34 Law Week 4597—now, I don't know whether it's been reported or what else, but in that case the Supreme Court confronted and very precisely laid down whether or not the decisions were retroactive with respect and they said the Miranda case would apply to any defendant whose trial began after the Miranda case was handed down on June the 13th.

Now in this case, the preliminary hearing was on June the 24th. So there is not any question but what this case began after the Miranda case was handed down. And, therefore the Miranda case must be applied.

Now the only case since then is in the Fifth Circuit which is—I understand this is Mississippi and Alabama and so forth. And in the Fifth Circuit Court of—no, I think it's the Appeals Court and the Court of Appeals at the Fifth Circuit, it was held that the rules in the Miranda case apply to a retrial. In other words, in that case, the name of that case is Gibson versus United States. That case came down the 13th day of this month—July the 13th. And that case held that the Miranda case—the rules put forth and the procedures they have got said this Miranda case had to apply to a trial which was a retrial. The man had been tried. The confession had been made and the man had been tried. And, finally they had to declare some kind of mistrial for some reason. And, then they went back and started a new trial, and they said that the guidelines suggested by the Chief Justice was not available at the time of trial; "We see no reason why this principle should not be applied." Let's see —now, we are talking about a trial that didn't originate until after June 13th. And the Miranda case has got to be applied to this case. And if the Miranda case has to be followed, then—like I say, this man was not—the preliminary hearing was June 24th. He was indicted on July 18th. And, he is tried on July 29th. So, all parts of the trial were held after this Miranda case.

So to go over once more that under this Miranda case, this confession is not admissible. It's a burden on the government—in this case on the Commonwealth to prove that this man understood his rights.

Now we asked the Sheriff a question—how do you know he understands his rights? How do you know he understands

them? How do you know he understands them when you said attorney? He says, "Well, I asked him. I asked him does he understand." He said he didn't understand them. He said, "Well, I told him again." And, I asked Mr. Coates, I said, "Mr. Coates, why didn't you use other words?" And, Mr. Coates said, "I used the same words." Well, we know why he didn't use different words. It's because he thought that all he had to do was to go along and question people the way he has always questioned them without brutality, without beating anybody. And, as long as it was a voluntary confession, all he had to do was say you have got a right to an attorney—something he memorized. Just like he memorized "Oh yea, oh yea, oh yea." He memorizes this thing. You have got a right to an attorney. He doesn't say you have got a right of advice to an attorney. He doesn't say you have the right of advice to counsel which is the less technical word. He doesn't say you have a right to a lawyer which is a word that means more to people. You have got somebody here with a sixth grade education. And, the Sheriff says you have got a right to an attorney. The man indicates he doesn't understand. He tells him the exact same words again. Now, if he didn't understand it before, how come he understood the second time? The man says oh, yes.

But, does that sustain the burden, Your Honor? Does that sustain the burden on the Commonwealth to prove that he really did understand it? Now, he testifies he didn't. Well, maybe his testimony isn't worthy of belief. All we can do is put him on to tell his side of the story. But, whether he did or not, my point is the Sheriff didn't go far enough to make this man understand. And, I don't think it has been proven that this man really understood that he had a right to a lawyer. He didn't really understand it. Even if he did understand, he didn't indicate that he was rejecting the right to an attorney.

And, the Miranda case does say he has got to reject it. He's got to waive it. He's got to make some indication he waives it. And, he didn't do that in any of that. And, certainly it looks to me—the evidence indicates he never really understood what the Sheriff was talking about. And, the evidence shows this man has got an I.Q. of 67 and is mentally deficient. And, there just isn't any question that he is mentally deficient.

The Sheriff had some dealings with him before. He knew he had been arrested for larceny. He said himself it was a very foolish crime. And, the Sheriff said he didn't know his educational level.

Now, the Sheriff went in there—he went in there and asked the man, he said, "What about that poison in the beans?" He says the man said, "Well, no, it wasn't put in the beans. It was put in something else." Now, our theory of this case, your Honor, is that this did not prove his guilt, because our theory is that this defendant knew that those beans had been fed to the dogs, and those dogs didn't die. He also knew that this child died of poisoning, because the sheriff had told him so.

So, the logical thing for him to say is no, it wasn't put in the beans. It was put in something else, because he knew it wasn't put in the beans. It must have been put in something else. And, we say this does not necessarily show his guilt.

But, the important thing here is that the sheriff thought it did show his guilt. Now, if the sheriff thought it showed his guilt, it must show that he was of the opinion that this was a pretty stupid man, because it was a pretty stupid answer to make. A man that's got cunning, he doesn't start by saying it wasn't put in the beans. It was put in something else. The sheriff must have thought that this man wasn't too

smart or he wouldn't have picked it up. He wouldn't have thought this man is guilty, because it's not very much gall involved when a man makes that kind of an answer.

What we are basically saying is that far from being frivolous and petty, that if we accept the law as it is written regardless of what our opinions are—if we accept the law as it is written and believe that the law transcends our opinion of it, and it transcends this case, then the law says that you have not only got to tell him but you have got to make him understand it. And, then if he understands it, he has got to give up that right.

And, it's not frivolous to say that if you've got a law that makes you tell a man that he's got the right to counsel that you have also got to make him understand it. I mean, the form is no good if it doesn't have substance. And, really this goes to the heart. If you accept the fact that you've got to tell him that you have got a right to a lawyer, then it's not frivolous. You are not talking about what words. It's a matter of the heart of protection of that requirement. You've got to make him understand.

Now, we don't suggest that the sheriff has got to be a psychiatrist. But, here he has some indication. He has some indication from the questioning of this man that he wasn't dealing with a very intelligent man. And, in fact, he wasn't. He had some dealings with him before. He had come in and admitted what the sheriff thought was a stupid sort of admission indicating he was guilty. And, he says you've got—after the fourth time, the fourth time he advised him, he said he had memorized to this man—the man says I reckon. I don't know about that.

The sheriff had reason to believe then that this man didn't know what he was talking about. And, he at that point should have explained to him what he was talking about. And, he didn't do it, because he didn't want the man

to clear him up. I mean, that's the truth. You can't beat the truth. And, that's what happened. The sheriff didn't want him to clear him up. So, he didn't explain it to him. It's inadmissible. He's got to do it. The case here says he's got to do it.

This man's got to make an intelligent waiver, and they have got to make him understand. And, if you take the law as it's written, this confession is inadmissible.

MR. GREER: As I said before, your Honor, the circumstances surrounding the taking of this confession, the sheriff touched all the bases. And, by saying that I meant he complied with all of the constitutional requirements including that abominable decision known as Miranda, and because I don't like that decision doesn't mean that I don't understand that decision. It doesn't mean I don't know what that decision says.

But, one thing that decision says after some sixty-three pages, somewhere along in there it says that we are not saying that voluntary statements are inadmissible, and we are not interfering with the regular routine police procedure in this country.

Now, in this particular case that we have here today, this Sheriff had gone home, and this man sent for him. Says I want to see, I want to talk to you. Miranda decision never says nowhere that the Sheriff has got to close his ears and put on ear muffs and not listen to a person who wants to talk. This man wanted to talk.

And, of course, we didn't know about Miranda last January the 19th when this procedure was—when this statement was taken. The law in Virginia—the most recent case on a confession was the Bittle case that arose out of Norfolk. You remember about that case? It was a little child who died of malnutrition, and they sent for the parents

after the autopsy was taken and said come down here and let us talk to you about this matter. And, so the mother comes down and they talk to her, and they don't advise her of anything. But, the Supreme Court of Virginia says that she made a completely voluntary statement. And, so it was admissible. And, they went into the Escobedo situation as you know. So, the failure of an officer to warn a person that he may remain silent does not remedy a voluntary confession inadmissible. I am just showing you to what lengths we are going in the law.

This decision was April the 26th, 1965. Miranda was June the 13th, 1966. This statement was taken January the 19th, 1966. But, even so, Your Honor, Miranda doesn't eliminate this statement. This thing was completely voluntary.

Now, this thing of a sixth grade education—never let it get out that a sixth grade education is a work sight. Most of the people in this country that are living today have only a sixth or seventh grade education. All it takes to get in the army is the equivalent of a fourth grade education. And, that's today. Of course, we do have illiterate people in the army. This man is thirty-three years old, I believe he said.

MR. MCLAUGHLIN, JR.: No, twenty-three.

MR. GREER: Twenty-three. And, they say he has worked at J. P. Stevens for three years, and to say he is so illiterate, so dumb that he didn't know what was going on is absurd. And, of course, he would like to change it. He would like to change it. But, he made a full and free and voluntary confession. And he's stuck with it.

MR. MCLAUGHLIN, III: May we be heard further, Your Honor?

THE COURT: It's Mr. Green's statement now and if he's through. What did you want to say?

MR. MCLAUGHLIN, III: We want to clear up this question of voluntary and involuntary. Mr. Greer's point is that this confession is voluntary, and in Miranda, the court says —they are talking about the cases in Miranda which they held to be involuntary. And, in your edition, it's 16 Lawyers Edition 2d 694, page 713, and the court says, "In the cases we might not find the defendant's statement to have been involuntary in traditional terms. Our concern for adequate safeguard is to protect fifth amendment rights is, of course, not lessened in the slightest." And, it went on to say that despite the fact that they said here that these confessions were voluntary, they were made in the Miranda case. But, the man didn't waive his right to counsel. And, that's the crucial question. And, what the Virginia courts decided before the Miranda court decision came down might be better reason—might be better logic. But, the Miranda case is law. And, it's the law that applies to this case. Mr. Greer doesn't deny that.

But, the fact that this confession was voluntary does not make it admissible. It doesn't make it admissible. They have got to inform him of his right and he has got to understand it. He's got to waive his right, and if that isn't accomplished, why—then, they have got to have a lawyer there or they are not allowed to question him at all.

Now, Mr. Greer makes the point that he came and called the Sheriff and said, "I want to talk to you." But, the Miranda case says you can't talk to him at all. You couldn't talk to him at twelve-thirty. You can't talk to him at six o'clock. You can't talk to him at eight o'clock. You've got to make it clear to him that he has got a right to counsel. He's got to reject that right. He's got to waive that right before you can question him at all.

So, the fact that he later makes a confession, the fact that he later calls the Sheriff back sitting in the jail, that doesn't make the confession admissible. It may be voluntary in the sense that this man's will wasn't overborne. But, he did not do it with knowledge of his rights that he had a right to counsel if he had not waived that right. And, if a lawyer had been there, he would have been able to advise him. But, he wasn't there.

This thing was incommunicado. And, they did not fulfill the requirements of the Miranda case. And, like it or not, that's the law. And, this confession is inadmissible.

Thank you, sir.

MR. MCLAUGHLIN, JR.: I want to to remind the Court—I think the Court will remember that this boy when asked about his grades, he said, "I made all A's for six years in conduct, but I made all F's in everything else." And, this very thing of trying to forge this check even though it was two different handwritings. One endorsement and one signed to the check. That, in itself, Mr. Coates should recognize the man's mental deficiency. To think he would ever get away with it is certainly indication of the inconsequential mind it was not very bright.

And, I'm not going into the law on the thing. I think Henry has very well established that. And, I think the Court is very keenly aware of what we must do whether we want to or not in many cases. But, in this particular case, the confession is not admissible. I don't think I can add anymore to that.

MR. GREER: Your Honor, I'm not going to say but one thing. I just want to make an observation. Have you ever been in a meeting where the chairman and the people in the meeting were so involved with parliamentary procedures that they couldn't get anything done? Well, that's what we are faced with in these cases now.

I ask Your Honor to rule on the admissibility of this confession so that we can either go home or continue the trial.

The Court's ruling and exception by counsel for the petitioner are set forth below:

[TR. PP. 222-223]

THE COURT: The matter has been well argued and presented to the Court. At the time the statement was taken, of course, they were holding the Miranda case. And, I believe all the rules and requirements were met by the Sheriff as far as he was concerned in advising and warning the man. Everybody agrees, I suppose, it was voluntary, because the Sheriff started talking to him about six-thirty, and the man didn't talk. So, he stopped at that time and he told him if he did want to talk anymore to let him know. And the Sheriff was called and he came back. And the man gave him the statement.

So I think that is certainly voluntary as far as that goes without any question. Now, as to the advising the man to an attorney, I think that the requirements were met. I think the gentleman must have understood what an attorney was. It's true that practically everybody refers to representatives as a lawyer. There may be some as attorneys, but I think they all know that the term is used synonymously I think. And they understand what it means.

So I think under the circumstances in this case that the Miranda case is met in the spirit at least. And I think we should allow the statement to go in evidence. That will be the ruling of the Court. Of course, you all want to save your point on that.

MR. MCLAUGHLIN, III: We except to the ruling of the Court in order to save the point.

* * *

After the jury was brought back, counsel for the petitioner again excepted to the admission of the confession into evidence; subsequently, certain testimony was heard after which counsel for the petitioner renewed its motion for exclusion of the confession from evidence, all of which is shown by the portion of the Record set forth below:

[TR. PP. 224-245]

MR. GREER: I would like to call Sheriff C. T. Coates.

C. T. Coates

introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GREER:

Q Sheriff, I believe about three hours ago you stated your name and occupation, and I asked you if you had had occasion to investigate the offense for which we are trying here today, and you said yes. When was the defendant arrested?

A January 19th, 1966.

Q Tell us the circumstances concerning his arrest please, sir, if you will?

A Well, on the night of January 18th, Doctor Wooding called me and advised me that this child, Brenner child had died of arsenic poisoning. And, the next morning, I went to start the investigation. I went up to Turbeville to the home of Franklin Satterfield. I brought his wife down to the office to talk with me.

And, I had talked with her in the office a little while, I brought her over to your office. In the meantime, Wallace Franklin Satterfield came to my office. When I finished over here, I went back over there. And, he was there.

I talked to him in my office there for a little while, and Doctor Wooding had indicated to me that this poisoning was placed in some beans. And, I questioned him about the beans. And, he made the statement, he said, "No. The poison was not put in the beans, but put in something else."—or something to that effect he said. And, he didn't explain what it was in. He didn't say. That's all he would tell me.

Q Had he been arrested at that time?

A No. But, he was arrested after that and placed in jail at twelve-forty on January the 19th. And around six-thirty or seven o'clock that night, I took him back up into my office and talked to him some more. We had made arrangements to take him to Appomattox the next morning to take what we know as a lie detector test.

And I talked to him about six-thirty or seven o'clock that night. And he didn't tell me anything. And I placed him back in jail. I told him, I said, "Well now, Frank, if you want to tell me anything, I'm going to be at home. You get the jailer or one of the deputies to call me, and I will come back." Well, I hadn't been at home over fifteen minutes when the Deputy called me and said that Frank Satterfield wanted to talk to me.

Well, I came back to the office. Two of the Deputies, Roy Pruitt and Monroe Anderson, was at the office. I told them to get Frank Satterfield out of the jail and bring him up to my office and see what he had on his mind. They brought him up to my office, and he sat down and gave me a statement as to what he did in the crime.

Q When you talked to him earlier in the day, did you advise him of his constitutional rights?

A I did.

Q When you talked to him around six-thirty, did you advise him of his constitutional rights?

A I did.

Q When you talked to him there about eight-fifteen, was he advised of his constitutional rights?

A Yes. He was.

Q Would you tell us—let me ask you this. This statement was it taken down on a tape recorder?

A Yes.

Q And, was it later transcribed?

A Yes.

Q When was it typed up?

A The next day, January the 20th. And, he signed it.

Q And, who was present when he signed it?

A Monroe Anderson, Roy Pruitt, and myself.

Q And, Monroe Anderson and Roy Pruitt were also present when the statement was given the night before?

A That's right.

Q All right, sir. Would you read the statement, please sir?

MR. MCLAUGHLIN, III: If your Honor please, at this time, I simply want to make it very clear that counsel for defense makes exception to the statement Mr. Coates is about to make.

THE COURT: Yes, sir. It's understood.

BY MR. GREER: (Continuing)

Q All right.

A The statement was taken starting at eight-fifteen p.m. at the sheriff's office in Halifax on January the 19th.

"Question: What is your name? Answer: Wallace Franklin Satterfield. Question: How old are you, Franklin? Answer: Twenty-three. Question: Do you know who I am? Answer Yes. Question: You know I am the sheriff? Answer: That's right. Question: You understand, Frank, that you don't have to make any statement if you don't want to? You understand that? Answer: Yes. Question: You understand that any statement you make can be used against you in court? You understand that? Answer: Yes. Question: You understand that you have the right to an attorney before you make a statement? You understand? Answer: That's right. I reckon. I don't know about that. Question: Now, wait a minute. You have the right to an attorney before you make any statements. You understand that? Answer: Oh, yes. Question: All right. Now, nobody has promised you anything? Answer: No. Question: Nobody has promised you any favors of any kind, made no threats towards you? Answer: No. Question: Are you making this statament of your own free will? Answer: Yes. Question: All right. Now, Frank, on December the 21st, tell me what happened? Answer: Well, she kept"—and I interrupted him.

Question: Who now? Answer: My lady. Question: Your wife? Answer: My wife kept raising hell about some rats around there so I decided I would go over to the drug store and get something and see if I could get rid of them. I went and got some poison and come back. Put some out. And, I took a drink and poured some of the poison over in that. Question: Now, where was the drink? Answer: In the refrigerator. Question: What kind of drink was it? Answer: A Diet-Rite Cola. Question: It was in the refrigerator? Answer: That's

right. Question: Now, your wife said, Frank, it hadn't been any rat poison in that house. Did she know you was doing that? Answer: No. She didn't know. Question: She didn't know you had put out any? Answer: No. I told her when I come back that night I'd done put out some. And, she told me they were sick. Question: I know, but she said it hadn't been no rat poison in the house, Frank? Answer: I know it. She didn't know it was in there. Question: She didn't know it was in there? Answer: No. Question: She didn't know you had done anything? Answer: No, not that. Question: All right, now. Why did you put it in the Diet-Rite Cola? Answer: I don't know. Question: Well, now what was the purpose of putting it in there? Just tell me the truth about it? Answer: No certain reason. Question: You put it in there so they would drink it didn't you? Answer: No. I didn't want them to drink it. I just put it in there. Question: Well, why did you put it in there? Answer: I don't know. Question: Now, Frank, it wasn't but one reason you put this stuff in there and that was to get them to drink it and kill them. Now, isn't that why you put it in there? Answer: Yes. Question: What did you say? Answer Yes. Question: Now, why did you want to get rid of them, Frank? Answer: So I could collect part of the insurance. Question: You had just taken out insurance—an insurance policy on your wife for three thousand dollars ($3,000.00) hadn't you? Answer: Yes. Question: About two weeks before that? Answer: Two or three. Question: And, you had an insurance policy on all the children didn't you? Answer: Yes. Question: And, after you put it in there, what did you do, Frank? Answer: I just put it in there and put the top back on

it, and I went on to work: Question: Okay. You got to work. You go to work about four? Answer: That's right. Question: What time of day was it when you put it in there? Answer: Around twelve-thirty. Question: Did you put the whole bottle of rat poison in there? Answer: No, sir. Question: How much was left in the bottle? Answer: About half of it. Question: Where did you get the poison, Frank? Answer: From Faulkner Lawson's. Question: Falkner Lawson's was a drug store? Answer: That's right. Question: Did you get it that day? Answer: No. I had been had it. Put some out for some rats and killed a few if it's any around there. Question: Now, wait a minute. Your wife said it hadn't ever been no rat poison in the house? Answer: I had it in my pocket, but she didn't know I had it in the closet. Question: You told me today you kept it in the car? Answer: I did. I kept it in my car and kept it locked at all time. Question: All right. You got it at Faulkner Lawson's drug store. What did you do with the bottle after you put it in the Diet-Rite Cola? Answer: I put some in the closet and I throwed it in the trash can out there beside the house. Question: Now, what do you mean you put some in the closet? Answer: For some rats. Question: Your wife said it hadn't been none in the house, Frank? Answer: She didn't know I put it in there. Question: Whereabouts in the closet did you put it? Answer: I just sat it up against back in the corner there where the rats been running. Question: Did you put it on something or what? Answer: I just sat it down on the floor and shut the door. Put a nail up in there so nobody couldn't get in there. Question: All right. How many of your folks got sick that night from drinking this Diet-Rite Cola, Frank? Answer:

One of the kids, two of the kids, and my wife. Question: Did one of your kids die? Answer: That's right. Question: The doctor said it died from arsenic poisoning. Did the rat poison you had have arsenic in it? Answer: I don't know. Question: Would you know it if you saw a bottle like it? Answer: Yes, sir. Question: Could you go down to Faulkner Lawson's and pick up a bottle like you bought? Answer: If they ain't done sold out I can. Question: What was the name of it? Do you know? Answer: No. I don't know. It was a bottle about that high, about six inches high. Might have been a little higher. Question: Now, Frank, this child that died, Jeffrey Ronald Brenner, was that your child? Answer: No, sir. Question: Your wife—that was an illegitimate child by your wife before you married her wasn't it? Answer: That's right. Question: But, the child had lived with you all ever since you married her? Answer: That's right. I bought him everything he eat and drank and hospital bills. Question: Now, Frank, have you told me the truth about this thing? Answer: That's right. Question: The whole truth? Answer: Well, I didn't give it to her. I just put it in the refrigerator. She gave it to him. Question: Well, I don't doubt that at all. We haven't accused you of giving it to her. You said you put it in the Diet-Rite Cola but you didn't tell her nothing about putting it in there did you? Answer: No. Question: You put it in there for the purpose of wiping them out to collect the insurance? That's what you just told me. Is that right? Answer: That's right. Question: All right. Is there anything else you want to say about it, Frank? Answer: No. I don't reckon it is. Question: Now, Frank, who is in here listening to you while you make this statement

besides myself? Answer: Roy Pruitt and I don't know him. Question: Roy Pruitt and Monroe Anderson. Both of them are Deputy Sheriffs. Both of them have on uniforms. Correct? Answer: That's right. Question: All right. You have given the statement of your own free will and accord? Answer: That's right."

Q Now, Sheriff, was this statement you just read signed by the defendant?

A Yes, sir. It is.

Q When did he sign it?

A The next day, January 20th, as soon as we could get it transcribed.

Q Who was present when he signed it?

A Monroe Anderson, Roy Pruitt and myself.

Q Now, at either time, that night or the next day, did the defendant complain to you about being sick?

A No. I tell you what the trouble with Frank was. He was just as normal as anybody until some of his people came down. And when he had to confront his people, he would get nervous. Now, that's why they thought he was sick. Frank wasn't sick.

Q Sheriff, did you try to get the defendant to identify the type of rat poison that he said he bought at Faulkner Lawson?

A Yes, sir.

Q Tell us about that please?

A We took him—he described that bottle which we found it like that over there, but he denied that that was the kind.

Q How did he describe it?

A He said about six inches high or a little higher. And I measured the bottle this morning. It's six and a half inches high.

Q Did he describe the color of the liquid?

A Yes. He said it was a liquid in a milky form, a white form.

CROSS EXAMINATION

BY MR. MCLAUGHLIN, III:

Q Sheriff Coates, you said the only reason Frank got sick was because his people was there. That's not a professional opinion?

A That's my observation.

Q Didn't some of his family ask you to get a doctor for him?

A I don't recall them asking about a doctor.

Q But, you do remember he began to get—look sick when his family was there?

A I didn't say he began to look sick. I said he got nervous whenever they came.

Q Well, do you know the difference between being nervous and being sick?

A Well, I've been both. It's right much difference.

Q Well, did you tell Frank Satterfield that if he confessed he would get out on bond?

A No, sir.

Q Isn't it a fact that in the preliminary hearing you asked the—answered the question in the preliminary hearing of the case on June 24th, 1966, that you testified and the court-reporter was here and took down everything you said.

And, you were asked, did you tell him if he made a confession he could get out on bond? And, your answer was, I do not know.

A I didn't say that.

Q You didn't say that?

A No, sir.

Q And, if the court-reporter says this is her remembrance of what she put down, would you say she made a mistake?

A Well, she bound to have made a mistake, because I didn't say that. I've never said I promised him bond if he confessed.

Q I didn't ask you if you said you promised him. I said you said you didn't say you didn't know whether you did or not. What I am saying is, you didn't know whether you told him that or not?

A No. I didn't say that.

Q And, if she testifies that that is what she took down, then you say she would be wrong?

A She would be mistaken.

Q Mistaken?

A Yes.

Q Well, now, didn't you call Mr. Bedford Satterfield, Frank's father, immediately after he made the statement to you that he had confessed and he could go home?

A He asked me to call his daddy, and I called his daddy. I didn't say he could come and get him. I didn't tell him anything about coming and getting him. He knew he could come and get him anytime he wanted to. Bond had already been set.

Q Mr. Bedford Satterfield testified that you called him up and said that the boy had confessed and you could come get him now, he would be mistaken too,

A I didn't say that.

Q If he were to testify that, he would be mistaken?

A That's right.

Q Didn't Sam Rogers come to you the next morning and tell you he thought the boy was sick and should have a doctor?

A I don't recall him saying that.

Q But, you wouldn't deny he said that?

A I don't remember.

Q Did you tell Frank Satterfield you were a good friend of his uncle, Ed Satterfield, who had worked as a deputy sheriff in years back, and a good friend of Mr. Thomas Bass, who was a relative of his, and a good friend of his family during the time you questioned him?

A No.

Q You didn't tell him that?

A No.

Q And, if Mrs. Abbott, the court-reporter, testified that on June the 24th, 1966, you were asked that question and you said, "I do not know whether I told him or not, but it's the truth in substance. It's the truth I am a friend of theirs." Then pursuing this, the question, "Isn't it a fact that you told him that?" And, you said, "Yes." Would she be wrong?

A That's right. You asked me the question at the preliminary hearing if I was a friend of them, and I answered yes, I was a friend of them. But, I never made any such statement to the man while I was questioning him.

Q Now, let me quote to you something and you tell me whether this is the way it was. "Question: Had you told Frank Satterfield that you were a good friend of his uncle, Ed Satterfield, who worked as deputy sheriff for you in years past, and a good friend of Mr. Thomas Bass and a good friend of his family during the time you questioned Frank? Answer: I do not know whether I told him or not. He knew that." Now, this bears out what you have said. "Now, is that true? Answer: It's true I am a friend of theirs." Again bearing out what you said. And then, "Question: Did you not tell him that on the night of January 19th around something after eight o'clock or did you tell him before? Answer: I do not know when I told him. Question: But, you did tell him? Answer: Yes."

A What I told him and what he told me . . .

Q Excuse me, Mr. Coates. What I want to know is is this correct?

A I haven't told him that in the period of questioning him, no.

Q What I am asking you in the preliminary hearing, is this a correct reproduction of what you said?

A You've got it so jungled up there. In reply to your question when you asked me if I was their friend, I told you yes here in court. But, I haven't said that to Franklin Satterfield in the course of investigation.

Q That wasn't what I asked you. But, you—it went on to say, "Didn't you tell Frank this that night?" And, the answer was yes. Isn't that correct?

A No.

Q It wasn't, and Mrs. Abbott has got it down that way, and then she is wrong?

A That wasn't mentioned that night, nothing about that was mentioned that night.

Q But, now if Mrs. Abbott has got it down there that you testified it was mentioned, she would be mistaken?

A I didn't say it.

Q I want to get a direct answer to this question what was said at the preliminary hearing. If Mrs. Abbott were to testify you said it and she wrote it down just as I read it to you which came out in the final thing, "Yes. I did tell him," she would be mistaken?

A Well, you read that again. You've got it jungled up there two or three times.

Q All right. I will read it to you in sequence. What happened in substance was you were asked about it, and your answer was, "Well, I am their friend." And, then you asked, "Didn't you tell him that?" And, the answer was, "Yes."

A No.

Q That didn't happen?

A No.

Q Now, sheriff, before you talked to Frank Satterfield, you had made an investigation of this case, hadn't you?

A Before I talked to him?

Q Before you talked to Frank Satterfield, you had done some checking around hadn't you?

A No. I hadn't said anything. I had asked his wife a few questions.

Q You had asked his wife some questions?

A That's right.

Q You found out from his wife he had some insurance?

A No. Insurance wasn't mentioned. It was mentioned, I believe, in the Commonwealth attorney's office.

Q That occurred before you talked to Frank Satterfield?

A That's right.

Q She said something about insurance then?

A I'm not sure of that. I'd have to read this thing and see.

Q It's her voluntary statement?

A That's right. Yeah, it was mentioned in here.

Q So, you knew something about some insurance before you talked to Frank?

A Yeah, that's right.

Q Now, I want—I don't want the jury to get the wrong impression now. You indicated that you spoke to him at twelve-thirty and he said—he made sort of a damaging statement in saying it wasn't put in the beans. It was put in something else. Or something to that effect. And, then you said you talked to him again at six-thirty, and he didn't say anything. He didn't want to talk to you.

A No.

Q Now, didn't you ask him a whole lot of questions in the morning or did you just say nothing or leave him alone? Didn't you go and ask him some questions to find out what went on?

A Well, he had agreed like I told you to go take the polygraph test or lie detector test to eliminate himself or involve himself whichever the case may be. And, I asked him that night around six o'clock if he still wanted to take the test or if he wanted to tell me anything he hadn't told

me. And, I advised him if he had anything to hide, it would be my advice for him not to take the lie detector test, because it would bring it out. If he had nothing to hide, then the thing for him to do, it would eliminate him just as well as it would involve him.

Q Now, Mr. Sheriff, Mr. Coates, excuse me. When this happened, of course, you knew he could always say well, I don't want to take a lie detector test?

A That's right.

Q If he done that, I mean you wouldn't have any evidence there one way or the other. And, so why didn't you ask him some questions then during that day to find out something in case he decided—excuse me. You didn't know then he was going to give you a statement of confession? You didn't know then that he wouldn't revoke according to the lie detector test? Didn't you ask him a whole lot of questions during the day?

A Not a whole lot of questions.

Q You asked him some didn't you?

A I asked him some.

Q What questions did you ask?

A I don't know.

Q You don't remember anything about that?

A I remember about it, but I don't remember the exact questions.

Q You remember exactly what you told him about the polygraph test?

A Yeah.

Q But, you don't remember what questions you asked?

A No.

Q Did you ask him anything about whether he had bought any poison?

A Whether he did what?

Q Whether he bought any poison?

A Well, I told you where he said he bought the poison.

Q I'm talking about what you asked him during the day?

A I don't remember whether I asked him about that before. He wouldn't tell me anything. He wouldn't cooperate.

Q Didn't want to talk to you?

A No.

Q Didn't want to talk to you?

A No. And, I didn't talk to him.

MR. MCLAUGHLIN, III: Your Honor, we renew our motion.

THE COURT: Well, you can save your point on that.

MR. MCLAUGHLIN, III: We note our exception.

* * *

At the conclusion of all of the evidence, counsel for the petitioner moved for a mistrial on the grounds that the admission of the confession into evidence had been prejudicial error; this motion was overruled and exception was taken, as set forth below:

[TR. PP. 455-456]

NOTE: The Court retired to Chambers to discuss instructions with counsel and the court-reporter present.

MR. MCLAUGHLIN, JR.: I'm not too familiar with the procedures of the Federal courts, and I don't know—I hope if they need anything after today, but I do feel that we should make every effort in the proceedings necessary to make all proper motions.

I would like to now make the motion that there be a mistrial of this case because of the admission of the confession which Sheriff Coates put in evidence. I have already had one exception to that.

THE COURT: I think the record is clear on that.

MR. MCLAUGHLIN, JR.: I want to be sure.

MR. MCLAUGHLIN, III: Uh-huh. I guess we have to get a ruling on it. We have to get a rule on the motion for mistrial.

THE COURT: Well, I have overruled the motion. I think it's already in the record.

MR. MCLAUGHLIN, JR.: I'd like to save the point.

On July 30, 1966, after the jury found the petitioner guilty of murder in the first degree, counsel for the petitioner moved the Court to set aside the verdict, argument on this motion being deferred, as set forth below:

[TR. P. 462]

MR. MCLAUGHLIN, JR.: If the Court please, counsel for Franklin Wallace Satterfield, hereby moves the Court to set aside the verdict of the jury on the grounds that it is contrary to the law and the evidence, and on the second ground that there was an error committed in the admission of the confession of the accused, Franklin Wallace Satterfield, and on the further grounds that the Court did not accept the

motion of counsel for the defense for a mistrial in this case. On those three grounds, sir.

THE COURT: Now, do you care to be heard on that? Would you like to argue that?

MR. MCLAUGHLIN, III: Your Honor, we would like to get the record done.

On October 8, 1966, counsel for the petitioner moved that the verdict of the jury be set aside and a new trial granted on the grounds that the requirements of Miranda *had not been proved to have been complied with. The substance of this motion was summarized in a statement certified by the Circuit Court of Halifax County and filed in the Clerk's Office of that Court, as set forth below;*

[R. PP. 40-42]*

STATEMENT OF MOTION AND OTHER INCIDENTS OF THE ABOVE WHEN HEARD ON OCTOBER 8, 1966 BEFORE HONORABLE G. E. MITCHELL, JR., JUDGE; NO COURT REPORTER BEING PRESENT

APPEARANCES:

J. WILLARD GREER, ESQUIRE, of Halifax, Virginia, Attorney for the Commonwealth;

HENRY W. MCLAUGHLIN, JR., ESQUIRE, and HENRY W. MCLAUGHLIN, III, ESQUIRE, of MCLAUGHLIN & MCLAUGHLIN, Attorneys at Law, Court House Square, Halifax, Virginia, Counsel for the Defendant.

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* All of the record to the proceedings in The Circuit Court of Halifax County and The Supreme Court of Appeals of Virginia, except the transcript of the trial on the 29th and 30th of July, 1966, are designated by the letter "R" followed by the appropriate page number.

At a hearing held in the Courthouse at Halifax, Virginia before the Honorable G. E. Mitchell, Jr., Judge, the defendant, Wallace Franklin Satterfield, by counsel, moved the Court to set aside the verdict of the jury finding the defendant guilty of first degree murder in the death of Jeffrey Ronald Brenner and sentencing the defendant to forty years imprisonment and to grant a new trial on the grounds that the Court erred in allowing into evidence before the jury testimony by C. T. Coates, Sheriff of Halifax County, of statements made by the defendant while in the custody of police authorities beginning at approximately 8:15 o'clock p.m. on the night of January 19, 1966. Counsel for the defendant in support of the aforesaid motion argued that the aforesaid statements made by the defendant, which constituted a confession of guilt, should not have been admitted before the jury on the grounds that the defendant's constitutional rights were violated as set forth in the case of *Miranda* v. *Arizona*, 16 L. ed. 2d 694 (June 13, 1966), and submitted oral argument in a written brief in support thereof.

J. Willard Greer, Esquire, attorney for the Commonwealth, argued in opposition to the aforesaid motion.

At the conclusion of the argument the Court did not immediately rule upon the aforesaid motion but rather took that motion under advisement until October 10, 1966 at which time the Court overruled all motions made by counsel for the defendant and entered final judgment upon the verdict of the jury.

Stipulation and Certificate of Counsel

Final judgment in the foregoing matter having been rendered on the 10th day of October, 1966, counsel for the Commonwealth and the defendant hereby stipulate and

certify the foregoing Statement of Motions and other incidents of trial and hereby affix their signatures to the foregoing statement to the end that the same may become part of the record on appeal.

Given under our hands this 3rd day of December, 1966.

BY: /s/ HENRY W. MCLAUGHLIN, JR.
Henry W. McLaughlin, Jr.
Halifax, Virginia, Counsel for
the Defendant

BY: /s/ HENRY W. MCLAUGHLIN, III
Henry W. McLaughlin, III
Halifax, Virginia, Counsel for
the Defendant

BY: /s/ J. WILLARD GREER
J. Willard Greer, Halifax,
Virginia, Commonwealth's Attorney

Certificate of Trial Judge

Date tendered December 3, 1966
Date signed December 3, 1966.

/s/ G. E. MITCHELL, JR.
G. E. Mitchell, Jr., Judge

Certificate of Clerk

Date received December 3, 1966

/s/ H. M. SIZEMORE, *Clerk*
Clerk.

On October 10, 1966, the Court overruled the motion to set aside the verdict and grant a new trial, stating the following:

[R. PP. 30-32]

JUDGE MITCHELL: I have checked over the record and read the brief that the attorneys filed, ... I don't believe there is any question that the statement made and used was a voluntary statement, and that the Sheriff used good judgment in explaining to him that he was entitled to an attorney, and I think Mr. Satterfield understood that fact. He, of course, wanted to get out of their custody; but, I don't think that the cold, or whatever else he complained of caused him to make a confession except under voluntary circumstances, and under his own will and his own choice. The manner in which he was handled, I think, shows consideration as far as the Sheriff is concerned. The Sheriff stopped questioning him when he wanted him to, and went home, and told Mr. Satterfield if he wanted to get in touch with him, if he wanted to make any further statements in regard to this, then the deputy would reach him and he would come right back. This is what actually did happen, and Mr. Satterfield had an opportunity to reflect upon the situation, and he had the Sheriff come back and he made the statement, which I think was voluntary and met the requirements as far as the constitution is concerned. I don't think any of his rights have been violated, so the court will hold, and will enter up judgment on the jury's verdict in this particular case, and I suppose if you want it the state will give you an opportunity to perfect an appeal of this case.

After overruling defense motions, the Circuit Court of Halifax County entered final judgment on the jury verdict and counsel for the petitioner excepted, as set forth below:

[R. PP. 31-32]

VIRGINIA: IN THE CIRCUIT COURT OF HALIFAX COUNTY ON OCTOBER TENTH, NINETEEN HUNDRED SIXTY-SIX, AND IN THE 191 YEAR OF OUR COMMONWEALTH

PRESENT: THE HONORABLE G. E. MITCHELL, JR., JUDGE PRESIDING

COMMONWEALTH OF VIRGINIA

VS.

WALLACE F. SATTERFIELD

Hearing on Motions
Original Trial on July 29, 30, 1966

This cause came on the 8 day of October to be heard, having been tried by jury on the 29 day of July 1966, as shown on Common Law Book 34, page 473, and continued to this day for hearings on motions as shown in the record; came also the Commonwealth's attorney and Mr. Henry W. McLaughlin, Jr., and Mr. Henry W. McLaughlin, III, attorneys for the accused; also the defendant, appearing pursuant to his own recognizance.

Here the Court heard the argument of counsel on the motions as stated in the record, and doth overrule said motions to set aside the verdict, to which ruling the defendant by his counsel doth except; and it being demanded of the accused if anything he had, or knew, to say, why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment it is accordingly the judgment of this court, that the defendant be, and he is hereby, sentenced to serve 40 years in the penitentiary of this Commonwealth, the period as ascertained by the jury aforesaid, and that the Commonwealth of Virginia do recover its costs by it about this prosecution expended . . : .

On December 5, 1966 an Amended Assignment of Error was filed in the Clerk's Office of the Circuit Court of Halifax County, Virginia, assigning the following as error:

[R. PP. 45-46]

Wallace Franklin Satterfield assigns his error as follows:

1. The Circuit Court erred in admitting into evidence before the jury, over objections and exceptions of counsel for the defendant, evidence for the Commonwealth of statements made by the defendant to police authorities beginning at approximately 8:15 o'clock on the night of January 19, 1966 while the defendant was incarcerated in the Halifax County jail, said statements purporting to constitute a voluntary confession of guilt; the foregoing being error because the Commonwealth did not sufficiently prove that defendant's rights secured to him by the Fifth and Sixth Amendments to the United States Constituion and as set forth in the case of *Miranda* v. *Arizona* were protected because it was not proven that police authorities effectively and clearly informed defendant of his right to silence and his right to retained or court appointed counsel and because it was not shown that the defendant voluntarily, intelligently and without threatening or cajolery waived his right to silence and his right to counsel before interrogation and before incriminating statements were obtained from him, but on the contrary, the evidence showed that the defendant's rights were not protected prior to his confession by the safeguards required by the Fifth and Sixth Amendments to the United States Constitution and as set forth in the case of *Miranda* v. *Arizona*.

On February 9, 1967, Counsel for petitioner filed in the Supreme Court of Appeals of Virginia at Richmond the record and transcript of the proceedings below and a petition for a writ of error and supersedeas, as shown, R. 50A, 51, 55-56 and see notations of receipt on transcript and Table of Contents of Circuit Court of Halifax County.

*The petition for appeal and supersedeas was lengthy and raised the same issues set forth in the petition for certiorari; therefore the petition for appeal and supersedeas is not printed in its entirety. However, since the Supreme Court of Appeals of Virginia, by way of a denial of a writ of error, declined to review the final order of conviction of the Circuit Court of Halifax County, and since there was therefore no reported opinion of the Supreme Court of Appeals of Virginia, the preliminary statement in the petition for appeal and supersedeas, which summarizes the argument presented in that petition, and the conclusion of that petition, are set forth below:**

[R. PP. 51-56]

PETITION FOR WRIT OF ERROR

TO THE HONORABLE THE CHIEF JUSTICE AND THE JUSTICES OF THE SUPREME COURT OF APPEALS OF VIRGINIA:

Preliminary Statement

This appeal of a first degree murder conviction presents questions involving the rules laid down in *Miranda* v. *Arizona*, 384 U. S. 436 (June 13, 1966) on the exclusion from evidence of incriminating statements unless certain requirements are proven to have been met.

The Supreme Court of Appeals has not heretofore had occasion to decide a case arising under *Miranda*, that case being applicable only to trials begun after June 13, 1966, the date *Miranda* came down. This case, tried on the 29th and 30th of July, 1966 in the Circuit Court of Halifax County, Virginia, is among the first confession cases in Virginia in which the law set forth in *Miranda* must be applied. The answers to the questions presented by this case

* Footnotes are omitted.

will inevitably determine the course of numerous criminal trials in the Commonwealth.

In the trial of Wallace Franklin Satterfield, the Commonwealth's case depended primarily upon evidence of a confession obtained from the defendant while in police custody without the benefit of counsel. The issue in this case is whether the confession should have been ruled inadmissible because the Commonwealth did not prove that it had met the requirements set forth in *Miranda*.

Although the trial court overruled the arguments by the defense that the confession was inadmissible as evidence, the trial court did indicate that the question was in its opinion a close one. In deciding, after final judgment was entered, that the defendant should be granted a new bond at that time pending appeal, the court stated that the outcome of the appeal appeared in sufficient doubt to justify such use of the court's discretion. (R. 37) In viewing the defendant's chances for success on appeal, the court stated, "there might be some merit to this case." (R. 36)

It is the position of the appellant that neither the letter nor the spirit of *Miranda* was complied with. Your appellant submits that violation of the spirit of *Miranda* was shown by the totality of the circumstances surrounding the confession; the defendant's sub-normal intelligence, his history of near-fatal spinal meningitis, his sickness and suffering from cold on the day of the confession, alternating verbal abuse and assurances of friendship by the sheriff, the action of the sheriff in overriding the defendant's wishes not to be interrogated and other psychological pressures. But in addition, appellant submits that the following specific requirements in *Miranda* were not complied with:

(1) Under *Miranda*, no confession obtained from a suspect in police custody without the benefit of an attorney can

be admissible unless the Commonwealth bears a "heavy" burden of proving that the defendant clearly understood his right to counsel and rejected that right before any interrogation began. The evidence of the Commonwealth showed that the defendant could not have understood that he had a right to counsel before he was interrogated, or even before the confession was first obtained, because subsequent to the confession the defendant stated on tape, while in a spirit of co-operation with police authorities, that he did not at that time understand his right to counsel.

(2) Under *Miranda,* a silent record will be presumed against the Commonwealth on the question whether the defendant's statements in the absence of counsel were obtained pursuant to an intelligent waiver of his rights. Thus, where there is not evidence of intelligent waiver, in-custody statements made in the absence of counsel are inadmissible. There was no evidence whatsoever in the record to show that the defendant, either before he was first interrogated or until after he had first confessed, indicated in any manner that he understood his right to counsel. Therefore no proof of intelligent waiver could possibly be found.

(3) Under *Miranda,* no in-custody interrogation in the absence of counsel can proceed where there is any doubt at all about the defendant's financial ability to retain counsel unless the defendant is advised prior to interrogation of his right to court-appointed counsel. There was no evidence that the defendant was ever advised of his right to court-appointed counsel. Therefore the confession should have been excluded from evidence.

(4) Under *Miranda,* no in-custody confession in the absence of counsel can be admitted where there is any evidence of cajolery. The confession should have been excluded

from evidence because the sheriff virtually conceded defense testimony that he had created a situation in which the defendant's freedom on bond depended upon his making a confession.

The lower court ruled against these arguments. The court overruled defense motions to exclude the confession from evidence, overruled a later motion for a mistrial because of the inclusion of the confession in evidence, overruled motions to set aside the jury verdict and grant a new trial, and on October 10, 1966, entered final judgment on the jury verdict finding the defendant guilty of murder in the first degree and sentencing him to forty years in the penitentary system of the Commonwealth.

* * *

Conclusion

In its emphasis upon the failure of proof of waiver of constitutional rights, the thrust of this appeal is upon the substance and not the form required in *Miranda*. Without the requirement of proof of waiver, *Miranda* would have been a set of empty rules. To decline to give effort to this requirement of proof of waiver would be to subvert the clear meaning of that decision. It is submitted that in this case the Commonwealth totally failed to bear its burden of proof of compliance with *Miranda* but that on the contrary the evidence proved violation of those requirements. Therefore, the confession should have been excluded from evidence. Since the admission of the confession into evidence was obviously prejudicial to the defendant, the verdict of the jury and final order by the Lower Court should be set aside.

Therefore, appellant respectfully requests that his petition for a writ of error and a supersedeas be granted, that

the final order of the Court below and the verdict of the jury be set aside and the case remanded for a new trial.

Respectfully submitted,

WALLACE FRANKLIN SATTERFIELD
BY: /s/ HENRY W. MCLAUGHLIN, III
Of Counsel.

On March 7, 1967, the Supreme Court of Appeals denied the petition for appeal and supersedeas on the grounds that the judgment of the Circuit Court of Halifax County, Virginia was plainly right, as set forth below:

[R. P. 57]

VIRGINIA: *In The Supreme Court of Appeals Held At The Supreme Court Of Appeals Building In The City Of Richmond On Tuesday The 7th Day Of March, 1967.*

The petition of Wallace Franklin Satterfield for a writ of error and supersedeas to a judgment rendered by the Circuit Court of Halifax County on the 10th day of October, 1966, in a prosecution by the Commonwealth against the said petitioner for a felony, having been maturely considered and a transcript of the record of the judgment aforesaid seen and inspected, the court being of opinion that the said judgment is plainly right, doth reject said petition and refuse said writ of error and supersedeas, the effect of which is to affirm the judgment of the said circuit court.

A Copy,

Teste:

/s/ H. G. TURNER
Clerk